

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN**

CHARLES JONES, as Personal Representative
of the Estate of Wade Jones, Deceased,

Plaintiff,

v.

COUNTY OF KENT et al.

Defendants.

Case No: 1:20-cv-00036
Hon. Judge Hala Y. Jarbou
Magistrate Judge Sally J. Berens

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**CORIZON DEFENDANTS' MOTION *IN LIMINE* TO PRECLUDE PLAINTIFF'S
NURSING EXPERT, STEPHEN FURMAN, CCRN, FROM OFFERING TESTIMONY
REGARDING THE APPLICABLE STANDARD OF CARE FOR THE CORIZON
NURSING DEFENDANTS**

Exhibit B Stephen Furman Deposition Transcript

STEPHEN FURMAN, R.N.

July 07, 2021

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Complete transcript of the
deposition of STEPHEN FURMAN, R.N., taken at the
instance of the Defendant, before Mary E. Donivan,
a Court Reporter and Notary Public for the State of
Virginia at Large, on July 7, 2021, beginning at
10:00 a.via Zoom Video; said deposition taken
pursuant to Fed. R. Civ P. 30, Rules of Michigan.

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<p>1 APPEARANCES:</p> <p>2 Ms. Jennifer G. Damico, Esq.</p> <p>3 Buckfire Law Firm</p> <p>4 29000 Inkster Road, Suite 150</p> <p>5 Southfield, MI 48034</p> <p>6</p> <p>7 on behalf of Plaintiff;</p> <p>8</p> <p>9 Mr. Ronald W. Chapman, Sr. M.P.A., LL.M</p> <p>10 Chapman Law Group</p> <p>11 1441 West Long Lake Road, Suite 310</p> <p>12 Troy, MI 48098</p> <p>13 on behalf of Defendants Corizon</p> <p>14 Health, Inc., et al.</p> <p>15</p> <p>16 Mr. Peter Smit, Esq.</p> <p>17 Varnum Law</p> <p>18 P.O. Box 352</p> <p>19 Grand Rapids, MI 49501</p> <p>20</p> <p>21 on behalf of Defendant, Kent County.</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1</p> <p>2</p> <p>3 Number 168 Article - Recognition pg 79</p> <p>4 and Management of</p> <p>5 Number 169 Article - Alcohol pg 82</p> <p>6 Withdrawal Delirium</p> <p>7 Benzodiazepine & Beyond</p> <p>8 Number 170 Census Information pg 85</p> <p>9 Number 171 CIWA Scale, Revised pg 86</p> <p>10 Number 172 CIWA-Ar Corizon Record pg 88</p> <p>11 Number 173 Furman's Handwritten</p> <p>12 Notes pg 92</p> <p>13</p> <p>14 Number 174 Furman's Final Opinion pg 132</p> <p>15 Number 175 Flash Drive pg 149</p> <p>16</p> <p>17 ** EXHIBITS RETAINED BY COUNSEL</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
Page 3	Page 5
<p>1 I N D E X</p> <p>2</p> <p>3 T E S T I M O N Y</p> <p>4 Direct Examination</p> <p>5 by Mr. Chapman pg 5</p> <p>6 Cross Examination</p> <p>7 by Mr. Smit pg 149</p> <p>8 Cross Examination</p> <p>9 by Ms. Damico pg 169</p> <p>10</p> <p>11 E X H I B I T S **</p> <p>12 Number 158 Expert Furman Report pg 58</p> <p>13 Number 159 Email Chain pg 59</p> <p>14 Number 160 Billing Records pg 61</p> <p>15 Number 161 Damico Letter,</p> <p>16 In Re: Video Hard Drive pg 64</p> <p>17 Number 162 Lippincott Chapter</p> <p>18 Alcohol Withdrawal pg 66</p> <p>19</p> <p>20 Number 163 Dft Expert Disclosure pg 69</p> <p>21 Number 164 Article- Predictors of pg 70</p> <p>22 Severe Alcohol Withdrawal</p> <p>23 Abstract pg 71</p> <p>24 British Journal of Addiction</p> <p>25</p> <p>26 Number 166 Article - Diagnosis and pg 73</p> <p>27 Management of Acute</p> <p>28 Alcohol Withdrawal</p> <p>29</p> <p>30 Number 167 Article - Clinical pg 75</p> <p>31 Institute Withdrawal</p> <p>32 Assessment, Revised</p>	<p>1 Under the current National Emergency,</p> <p>2 pursuant to Section 319 of the Public Health Service</p> <p>3 Act, counsel stipulate the witness may be sworn</p> <p>4 remotely.</p> <p>5 STEPHEN FURMAN, R.N., called as a</p> <p>6 witness by the Defendants, was duly sworn and</p> <p>7 testified as follows:</p> <p>8</p> <p>9 MS. DAMICO: Jennifer Damico, for the</p> <p>10 plaintiff, the Estate of Wade Jones.</p> <p>11 MR. CHAPMAN: This is Ronald W. Chapman on</p> <p>12 behalf of the medical defendants.</p> <p>13 MR. SMIT: This is Peter Smit from the</p> <p>14 Varnum Firm on behalf of the County defendants.</p> <p>15</p> <p>16 DIRECT EXAMINATION</p> <p>17 BY MR. CHAPMAN:</p> <p>18 Q Mr. Furman, as I just indicated, I'm the</p> <p>19 one that's going to be taking the initial part of</p> <p>20 the deposition. And there may be questions from</p> <p>21 Ms. Damico or Mr. Smit after I am done, and then</p> <p>22 potentially I will have some more questions after</p> <p>23 that. I assume you've given a deposition before?</p> <p>24 A Correct.</p> <p>25 Q Looks to me like, I don't know, maybe 50</p>

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<p style="text-align: right;">Page 6</p> <p>1 or 100 times?</p> <p>2 A About 55 times.</p> <p>3 Q About 55 times. So I'll give you some</p> <p>4 rules and I'm sure they're completely different than</p> <p>5 the 55 you've heard before. You have to answer</p> <p>6 audibly; correct?</p> <p>7 A Correct.</p> <p>8 Q You can't shake your head or move your</p> <p>9 head. You can do all that but the court reporter</p> <p>10 can't take that down; okay?</p> <p>11 A Right.</p> <p>12 Q If you can't understand a question I ask</p> <p>13 for any reason, I screw up a date, screw up a</p> <p>14 medical term, screw up somebody's name, transpose</p> <p>15 the moon or sun or whatever it is, don't answer the</p> <p>16 question and tell me you don't understand. Fair</p> <p>17 enough?</p> <p>18 A Fair enough.</p> <p>19 Q If you tell me you don't understand I may</p> <p>20 ask you what don't you understand. And you can</p> <p>21 point out the foolish statement I made and I'll</p> <p>22 correct it. Fair enough?</p> <p>23 A Fair enough.</p> <p>24 Q If you need to take a break, that's fine.</p> <p>25 We can take a break at any time you want for as long</p>	<p style="text-align: right;">Page 8</p> <p>1 to provide expert testimony?</p> <p>2 A That would be a good question. I would</p> <p>3 figure it to be approaching 200.</p> <p>4 Q So in 2 1/2 years you've received about</p> <p>5 100 more cases?</p> <p>6 A I would guess somewhere around there.</p> <p>7 Q Okay.</p> <p>8 A I mean, not -- I can't give you an exact</p> <p>9 number but somewhere in that ballpark.</p> <p>10 Q I understand in one of your prior</p> <p>11 depositions you said you received four or five cases</p> <p>12 a month?</p> <p>13 A Sometimes I don't take all the cases I</p> <p>14 receive. Some of those I decline because they lack</p> <p>15 merit.</p> <p>16 Q Well, if you decline a case because it</p> <p>17 lacks merit do you just give an opinion and say the</p> <p>18 case lacks merit? Or you don't take the case</p> <p>19 because you can't support the attorney?</p> <p>20 A Exactly. I don't take the case because I</p> <p>21 find standard of care deviations within the nursing</p> <p>22 staff that I was evaluating.</p> <p>23 Q Let me see if I understand this. So when</p> <p>24 you're hired as an expert, if you don't agree with</p> <p>25 the attorney's position you tell them, and they</p>
<p style="text-align: right;">Page 7</p> <p>1 as you need. But the question that's posed, at</p> <p>2 minimum, you have to answer; correct?</p> <p>3 A Correct.</p> <p>4 Q If you do think you're going to need a</p> <p>5 break I would like some lead time at least to finish</p> <p>6 maybe the line of question before we get to the time</p> <p>7 of the break; okay?</p> <p>8 A Sure.</p> <p>9 Q Since you're not a client of Ms. Damico's</p> <p>10 anything you say outside the break I'll ask what you</p> <p>11 talked about, and you'll have to tell me what it is</p> <p>12 that you talked about.</p> <p>13 Do you have any reasons why you can't</p> <p>14 give a deposition today? Do you have some pressing</p> <p>15 appointments over the next hour, or are you on some</p> <p>16 drugs or you can't remember or anything like that?</p> <p>17 A No.</p> <p>18 Q Okay. Would you please state your full</p> <p>19 and complete name for the record.</p> <p>20 A Sure. My name is Stephen Allen Furman.</p> <p>21 And I am a Jr.</p> <p>22 Q I read a number of your prior depositions.</p> <p>23 And one of the depositions I read was in the middle</p> <p>24 of 2018. You said that you have been retained 100</p> <p>25 times. So how many times have you been retained now</p>	<p style="text-align: right;">Page 9</p> <p>1 decline to retain you?</p> <p>2 A They ask me to review the case. I review</p> <p>3 the case and then I can either support it or I can't</p> <p>4 support it.</p> <p>5 Q I got that. But when they ask you to</p> <p>6 review the case at that point in time you're</p> <p>7 retained to look at the case. You're paid for the</p> <p>8 time; right?</p> <p>9 A Sure.</p> <p>10 Q Okay. So let's also count the ones that</p> <p>11 you say there's no breach of the standard of care.</p> <p>12 We're now back up to 4 or five a month; right?</p> <p>13 A About that, yes.</p> <p>14 Q Okay. So that's about 48 to 60 cases a</p> <p>15 year that you look at?</p> <p>16 A Okay. I'll agree with the math.</p> <p>17 Sometimes it's, you know, 2 cases a month but an</p> <p>18 aggregate of 4 to 5 a month.</p> <p>19 Q But for the middle of 2018 to the middle</p> <p>20 of 2021 you increased by 100 cases you'd have to be</p> <p>21 doing at least three to 5 a month?</p> <p>22 A Okay.</p> <p>23 Q Just do the math.</p> <p>24 A Sure.</p> <p>25 Q 3 times 12 is 36 times 3 would be 108?</p>

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<p style="text-align: right;">Page 10</p> <p>1 A Okay. I agree.</p> <p>2 Q 108 plus 100 is about 200; right?</p> <p>3 A That is.</p> <p>4 Q And of those 200 cases that you reviewed,</p> <p>5 how many are defendants and how many were</p> <p>6 plaintiffs?</p> <p>7 A Could be, ballpark speculation, but I'll</p> <p>8 say 70 percent is plaintiff and 30 percent is</p> <p>9 defense. And there was a couple of outliers that</p> <p>10 were I would say not standard of care opinion cases.</p> <p>11 Q Okay. How many cases has Ms. Damico</p> <p>12 retained you to look at?</p> <p>13 A This is the only one.</p> <p>14 Q How many cases has Mike Morse Law Firm</p> <p>15 retained you to look at?</p> <p>16 A This is the only one.</p> <p>17 Q Okay. How many cases -- well, what</p> <p>18 attorneys in Michigan have you looked at cases for?</p> <p>19 A I have reviewed several cases for I would</p> <p>20 say the law firm that Emily Peacock is a partner in.</p> <p>21 Mark Lipton of Lipton Law and Ms. Audrey Sherman. I</p> <p>22 believe that's all of Michigan.</p> <p>23 (Proceedings paused for audio</p> <p>24 adjustments after which time the</p> <p>25 following resumed on the</p>	<p style="text-align: right;">Page 12</p> <p>1 A I know it pretty well.</p> <p>2 Q Okay. The CV that I have was updated as</p> <p>3 of January 2020 so about a year and a half ago. Has</p> <p>4 anything changed since then?</p> <p>5 A It has.</p> <p>6 Q What's changed?</p> <p>7 A I have my bachelor's degree now. I'm in a</p> <p>8 master's in nursing education program.</p> <p>9 Q Are you in a master's to obtain your nurse</p> <p>10 practitioner license or something else?</p> <p>11 A Nursing education.</p> <p>12 Q When did you obtain your bachelor of</p> <p>13 science degree?</p> <p>14 A In April 2021.</p> <p>15 Q Anything else change?</p> <p>16 A Now my certifications, you can take away</p> <p>17 TPATC.</p> <p>18 Q You can take away which one? Oh, TPATC?</p> <p>19 A Correct.</p> <p>20 MR. SMIT: Ron?</p> <p>21 MR. CHAPMAN: Yes?</p> <p>22 MR. SMIT: During our last break somebody</p> <p>23 did something so I don't see the witness</p> <p>24 anymore.</p> <p>25 MR. CHAPMAN: Well, you can't see him and</p>
<p style="text-align: right;">Page 11</p> <p>1 record:)</p> <p>2 BY MR. CHAPMAN:</p> <p>3 Q Do all of your cases that you look at, do</p> <p>4 they deal with nursing care?</p> <p>5 A Like I said just a few minutes ago, there</p> <p>6 are a couple of outliers that were not standard of</p> <p>7 care opinions.</p> <p>8 Q So 95 percent would deal with nursing</p> <p>9 care?</p> <p>10 A It would be a little north of 95 percent.</p> <p>11 I've done 4 cases or 5 cases that weren't standard</p> <p>12 of care opinions.</p> <p>13 Q In all the reviews that you have done,</p> <p>14 Mr. Furman, have you ever reviewed a case that dealt</p> <p>15 with someone going through detox in a jail?</p> <p>16 A No.</p> <p>17 Q Have you ever written a paper or published</p> <p>18 an article or taught a class relating to someone who</p> <p>19 is going through detox in a jail?</p> <p>20 A No.</p> <p>21 Q Do you have a copy of your CV there?</p> <p>22 A I believe it's on this disk (indicates)</p> <p>23 here.</p> <p>24 Q Do you want to pull it up, or do you know</p> <p>25 it by heart?</p>	<p style="text-align: right;">Page 13</p> <p>1 hear me at the same time.</p> <p>2 (Proceedings paused to adjust</p> <p>3 visual clarity and the following</p> <p>4 resumed:)</p> <p>5 BY MR. CHAPMAN:</p> <p>6 Q Is that all the changes, or do you have</p> <p>7 other changes? The ones you talked about are you</p> <p>8 finished your BS. You're in a master's program, and</p> <p>9 you no longer have the TPATC certification.</p> <p>10 A Correct. And then for professional</p> <p>11 organizations, other than the American Association</p> <p>12 of Critical Care Nurses I'm also a member of the</p> <p>13 American Nurses Association, Virginia Nurses</p> <p>14 Association. And I was accepted into Sigma Beta</p> <p>15 Tau.</p> <p>16 Q Anything else?</p> <p>17 A No.</p> <p>18 Q Okay.</p> <p>19 A And those were updated 4/10/21.</p> <p>20 Q Okay. I guess we can start with your</p> <p>21 education. We have an association's degree in</p> <p>22 nursing. And then you said you just completed your</p> <p>23 bachelor's degree; correct?</p> <p>24 A Correct.</p> <p>25 Q Was your bachelor's degree online, or was</p>

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<p style="text-align: right;">Page 14</p> <p>1 it done in person?</p> <p>2 A It was done online.</p> <p>3 Q Okay. What university did you go to?</p> <p>4 A Chamberlain University.</p> <p>5 Q Is Chamberlain an accredited university?</p> <p>6 A It is.</p> <p>7 Q Why did you chose to go online and not go</p> <p>8 in person?</p> <p>9 A Because working in the hospital I work</p> <p>10 varied shifts. Our scheduling requirements doesn't</p> <p>11 allow me the same days off every week. Therefore, I</p> <p>12 had to chose a program in which I can work around my</p> <p>13 schedule versus the scheduled days of going to</p> <p>14 school.</p> <p>15 Q How were you able to complete the hands-on</p> <p>16 training, clinical training online?</p> <p>17 A Well, when you're going from RN to BSN</p> <p>18 there are no clinical requirements.</p> <p>19 Q What about the hands-on training? There</p> <p>20 aren't any?</p> <p>21 A No.</p> <p>22 Q So it's all text book?</p> <p>23 A Correct.</p> <p>24 Q Or all lectures?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 16</p> <p>1 they would call on the supplemental staffing pool to</p> <p>2 fill that need?</p> <p>3 A Correct.</p> <p>4 Q Okay. It says here that you worked in the</p> <p>5 pediatric intensive care unit?</p> <p>6 A I have, yes.</p> <p>7 Q Are there many pediatric patients going</p> <p>8 through detox?</p> <p>9 A You don't see it very often.</p> <p>10 Q Probably never see that?</p> <p>11 A I've never seen that.</p> <p>12 Q Says you work in ICU for adults?</p> <p>13 A Correct.</p> <p>14 Q Okay. Many of those folks in the ICU</p> <p>15 going through detox?</p> <p>16 A Sometimes. I had one Saturday.</p> <p>17 Q But they're in the ICU; correct?</p> <p>18 A They are, yes.</p> <p>19 Q So they're in a hospital in an ICU; right?</p> <p>20 A Correct.</p> <p>21 Q And that's when you see them. When</p> <p>22 they've already been to the hospital, and they're</p> <p>23 already in the intensive care unit; right? Under</p> <p>24 this condition?</p> <p>25 A If you're isolating it to ICU, yes.</p>
<p style="text-align: right;">Page 15</p> <p>1 Q So if you look at the beginning of your CV</p> <p>2 it says VCU Medical Center in Richmond, and you were</p> <p>3 there from 2004. Are you still working there?</p> <p>4 A I am, yes.</p> <p>5 Q And it's a Level 1 trauma center?</p> <p>6 A It is.</p> <p>7 Q Supplemental staffing pool. Do you still</p> <p>8 rotate every 4 hours?</p> <p>9 A Sometimes every 4 hours. Sometimes every</p> <p>10 8 hours. And sometimes I get to stay on that same</p> <p>11 unit for 12 hours.</p> <p>12 Q Do you rotate pretty much every day?</p> <p>13 A I'm on a different unit every day. It's</p> <p>14 very seldom that I'm on the same unit 2 days in a</p> <p>15 row.</p> <p>16 Q Why is that? Why not be in the same unit</p> <p>17 so you could develop the expertise for that unit?</p> <p>18 A Because I like variety. And with</p> <p>19 supplemental staffing I do get variety. Some days</p> <p>20 I'm in cardiac. Some days I'm in trauma. Some days</p> <p>21 I'm in the emergency room. Some days I'm in</p> <p>22 surgery. So I like it.</p> <p>23 Q So with supplemental staffing with a</p> <p>24 particular division, a section is understaffed</p> <p>25 somebody doesn't come in, vacations, whatever, then</p>	<p style="text-align: right;">Page 17</p> <p>1 Q Just isolating this. We'll go through</p> <p>2 some of the others. So in this case you see some</p> <p>3 detox patients that are already in VCU Medical</p> <p>4 Center in the intensive care unit?</p> <p>5 A Correct.</p> <p>6 Q All right. You work in the telemetry</p> <p>7 unit?</p> <p>8 A Yes.</p> <p>9 Q Many of those patients go through detox?</p> <p>10 A Occasionally.</p> <p>11 Q Occasionally. How often is occasionally?</p> <p>12 Once a year? Twice a year?</p> <p>13 A So with it being varying degrees of detox,</p> <p>14 if they have an alcoholic history or DTOH history,</p> <p>15 we put them on CIWA scoring. So CIWA scoring you</p> <p>16 would see 15, sometimes 20 patients a months that</p> <p>17 you're doing CIWA scoring every 4 hours.</p> <p>18 Q Any of those folks you see in the</p> <p>19 telemetry unit experiencing DTs, tremors?</p> <p>20 A True DTs not so much in telemetry.</p> <p>21 They're usually monitored in the ICU at that point</p> <p>22 if they're true DTs --</p> <p>23 Q I'm talking about telemetry.</p> <p>24 A I'm answering. So if we have a patient</p> <p>25 that's been through DTs, normally they're</p>

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<p style="text-align: right;">Page 18</p> <p>1 transferred to the intensive care unit to be</p> <p>2 appropriately managed. So you will have patients on</p> <p>3 telemetry who are scoring 4, 5, 6 on their CIWA</p> <p>4 scores. But the true DTs, you're not going to see</p> <p>5 that in telemetry.</p> <p>6 Q Okay. The med-surg floor, many of those</p> <p>7 folks going through detox?</p> <p>8 A It would be the same as the telemetry</p> <p>9 floor. We combine. All of our med-surg floors are</p> <p>10 combined with telemetry.</p> <p>11 Q So how many patients in telemetry in the</p> <p>12 last 2 years have you treated that were going</p> <p>13 through detox? Alcohol detox, not drugs.</p> <p>14 A So -- and we're talking about true DTs.</p> <p>15 Not scoring 4 or 5 on a CIWA score?</p> <p>16 Q Yes. Not scoring 4, 5, 6, 7.</p> <p>17 A Okay.</p> <p>18 Q I mean, that's not really even going</p> <p>19 through withdrawal. I'm talking about somebody</p> <p>20 that's --</p> <p>21 A 15 to 20.</p> <p>22 Q 15 to 40. I think the CIWA score goes up</p> <p>23 to 60; right? So 15 to 60 let's say.</p> <p>24 A I would say you would see probably one</p> <p>25 every other month.</p>	<p style="text-align: right;">Page 20</p> <p>1 your role in critical care transport?</p> <p>2 A I was a -- served as transport ICU</p> <p>3 critical care nurse, and I also filled as a critical</p> <p>4 care paramedic.</p> <p>5 Q And were these transporting patients from</p> <p>6 the hospital potentially to another hospital or from</p> <p>7 the field like where an EMT gets somebody from a car</p> <p>8 accident to the hospital?</p> <p>9 A It would normally be transports, bringing</p> <p>10 patients into our hospital. I think I transported 2</p> <p>11 patients out of our hospital to another hospital</p> <p>12 because our pediatric ICU was full.</p> <p>13 Q So as part of a transport team, you would</p> <p>14 go to another facility, pick up a patient and bring</p> <p>15 that patient to your facility?</p> <p>16 A Right.</p> <p>17 Q Okay. Any of those patients going through</p> <p>18 alcohol detox?</p> <p>19 A They are not.</p> <p>20 Q Okay. And you said you worked in the</p> <p>21 emergency department?</p> <p>22 A Correct.</p> <p>23 Q How many shifts a year, and let's take --</p> <p>24 let's just take this year from January 1st to now.</p> <p>25 So half a year. How many shifts did you work in the</p>
<p style="text-align: right;">Page 19</p> <p>1 Q How many have you seen?</p> <p>2 A Oh, I mean me. I would see one, about one</p> <p>3 every other -- now, me taking care of them</p> <p>4 personally. I'm the assignment nurse taking care of</p> <p>5 that patient one every other month. Me assisting my</p> <p>6 fellow nurses is going to be one or 2 a month.</p> <p>7 MR. SMIT: Ron?</p> <p>8 MR. CHAPMAN: Yes.</p> <p>9 MR. SMIT: Just as clarification, are we</p> <p>10 talking about his treating them primarily for</p> <p>11 DTs?</p> <p>12 MR. CHAPMAN: What I would like, Peter, is</p> <p>13 let me ask my questions. If you want to object</p> <p>14 to form or foundation you can do that. And</p> <p>15 then when it's your turn you can ask questions.</p> <p>16 But I'd appreciate you not stopping me and ask</p> <p>17 to clarify a question I'm asking.</p> <p>18 MR. SMIT: All right. Fair enough.</p> <p>19 MR. CHAPMAN: Okay.</p> <p>20 BY MR. CHAPMAN:</p> <p>21 Q In rehab do you treat, you personally,</p> <p>22 treat people going through detox?</p> <p>23 A It would be far past detox by the time</p> <p>24 they got to inpatient rehab.</p> <p>25 Q Critical care transport -- first what was</p>	<p style="text-align: right;">Page 21</p> <p>1 emergency department?</p> <p>2 A This is going to be kind of ballpark, but</p> <p>3 I would say 15 shifts.</p> <p>4 Q Okay. And that would be 4-hour shifts or</p> <p>5 8-hour shifts?</p> <p>6 A I'm going on 12-hour shifts.</p> <p>7 Q 12-hour shifts, okay. So when it says</p> <p>8 floating every 4 hours why would you stay in the</p> <p>9 emergency department for 12 hours?</p> <p>10 A Sometimes I get scheduled in one place for</p> <p>11 12 hours. But I will say since January there were</p> <p>12 several times I did work in the emergency room, and</p> <p>13 I was pulled out at 3 to go to another floor to</p> <p>14 work.</p> <p>15 Q But most of your floating is 4 hours?</p> <p>16 Because that's what it says on your resume.</p> <p>17 A Correct.</p> <p>18 Q Okay.</p> <p>19 A Potentially every 4 hours. I've been</p> <p>20 moved within 2 hours. But potentially, I move every</p> <p>21 4. Sometimes I stay in one place for 8. Sometimes</p> <p>22 I stay in one place for 12.</p> <p>23 Q So my question to you, in the emergency</p> <p>24 department how many times did you perform a 12-hour</p> <p>25 shift in the last 6 months? Continuous 12 hours,</p>

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<p style="text-align: right;">Page 22</p> <p>1 6 a to 6 p kind of thing?</p> <p>2 A I would say probably 10 or 12.</p> <p>3 Q Okay. So why in the emergency department</p> <p>4 would you do 12-hour shifts? Why aren't you doing 4</p> <p>5 or 6 or 8? Why are you doing 12?</p> <p>6 A I could potentially work in one place for</p> <p>7 4 hours, 8 hours or 12 hours. My staffing</p> <p>8 coordinator tells me to move and I move. I don't</p> <p>9 get the choice and stay. If I had the choice I</p> <p>10 would obviously stay there the entire 12 hours.</p> <p>11 Because it's a little difficult uprooting and moving</p> <p>12 to a new unit to accept a brand new set of patients.</p> <p>13 But I don't get that choice. It's the entire</p> <p>14 staffing coordinator's decision on whether I move or</p> <p>15 not.</p> <p>16 Q And I understand that. It's just that</p> <p>17 your resume says every 4 hours. That's why I'm</p> <p>18 questioning it.</p> <p>19 A My resume says potentially every 4 hours,</p> <p>20 not absolutely every 4 hours.</p> <p>21 Q In the emergency department do you see</p> <p>22 patients there going through alcohol detox as</p> <p>23 opposed to drug?</p> <p>24 A Sometimes you do. Usually, what you see</p> <p>25 there is somebody comes in with seizures, and it's</p>	<p style="text-align: right;">Page 24</p> <p>1 it's important that the patient, if they're able --</p> <p>2 I mean, coming out of a postictal state it might be</p> <p>3 difficult. They might still be confused. But if</p> <p>4 they're able it's important that they tell you the</p> <p>5 truth; right?</p> <p>6 A Sure.</p> <p>7 Q So if I'm coming into your facility and</p> <p>8 I'm intoxicated, but I'm coming in there because of</p> <p>9 a car accident or I cut my arm or something like</p> <p>10 that, and you ask me and I say I never drink. I had</p> <p>11 my first drink like three hours ago. You wouldn't</p> <p>12 then be thinking that this person might go through</p> <p>13 withdrawals or have a difficult time withdrawing;</p> <p>14 right? He only had his first drink in his life and</p> <p>15 that was three hours ago.</p> <p>16 A Sure. And the nice part of our charting</p> <p>17 system at our hospital is if they are a previous</p> <p>18 patient there, obviously, when we hit their icon it</p> <p>19 will bring up all of their past medical history if</p> <p>20 they've been a patient there before. So we will be</p> <p>21 able to see their past medical history.</p> <p>22 Q And then you worked at Henrico Doctors'</p> <p>23 Hospital. You haven't worked there since 2013;</p> <p>24 correct?</p> <p>25 A Correct.</p>
<p style="text-align: right;">Page 23</p> <p>1 found they haven't had alcohol in a couple of days,</p> <p>2 and they've had an alcohol induced seizure. So you</p> <p>3 do see those occasionally. More often than not you</p> <p>4 see the intoxicated patient that comes into the</p> <p>5 emergency room, and they get admitted to the</p> <p>6 hospital.</p> <p>7 Q Okay. So other than the emergency room</p> <p>8 they're not necessarily going through withdrawals?</p> <p>9 A Correct.</p> <p>10 Q Okay. Because you don't go through</p> <p>11 withdrawals until your blood alcohol level drops</p> <p>12 below your normal blood alcohol level then you</p> <p>13 potentially start withdrawals; correct?</p> <p>14 A That's usually the way. I mean, you can</p> <p>15 occasionally. If someone comes in with seizures and</p> <p>16 we find they have alcohol history, obviously, we're</p> <p>17 going to ask them when their last drink was. And</p> <p>18 sometimes we can pin it down to this is the onset of</p> <p>19 alcohol withdrawals. And sometimes patients are</p> <p>20 postictal for a while, and then once they come out</p> <p>21 of the postictal state we can inquire when their</p> <p>22 last drink was to try to pin down if it's</p> <p>23 withdrawals or if it was seizure due to some</p> <p>24 metabolic derangement.</p> <p>25 Q In that situation that you just described</p>	<p style="text-align: right;">Page 25</p> <p>1 Q And while working there you worked at</p> <p>2 Adult -- you were receiving adult and pediatric</p> <p>3 patients from the operating room. That's one of the</p> <p>4 things. Probably not many people going through</p> <p>5 detox there; right?</p> <p>6 A No. There's not many going through detox</p> <p>7 in the recovery room.</p> <p>8 Q And then it says you were assuring their</p> <p>9 safe emergence from various types of anesthesia.</p> <p>10 Probably didn't encounter people detoxing from</p> <p>11 alcohol there?</p> <p>12 A Correct.</p> <p>13 Q And then it says, Further various duties</p> <p>14 included medical administration. Unless we're</p> <p>15 talking about a doctor or a nurse, not many people</p> <p>16 going through detox there; right?</p> <p>17 A That's correct.</p> <p>18 Q And then it says, critical drip titration.</p> <p>19 Probably not many going through detox?</p> <p>20 A Correct.</p> <p>21 Q Lab draws. Could be going through detox</p> <p>22 but typically not; right?</p> <p>23 A Correct. We're just waking them up from</p> <p>24 anesthesia.</p> <p>25 Q Okay. Blood glucose monitoring,</p>

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<p style="text-align: right;">Page 26</p> <p>1 discontinuing the base of lines, critical thinking</p> <p>2 skills. Again, not many of those folks going</p> <p>3 through detox; right?</p> <p>4 A Correct.</p> <p>5 Q Okay. And then it says you worked at St.</p> <p>6 Francis Medical Center, Virginia from 06 to 09.</p> <p>7 Looks like you did pretty much the same thing as you</p> <p>8 did at Henrico. So not many of those folks were</p> <p>9 going through detox; correct?</p> <p>10 A The difference between Henrico Doctors'</p> <p>11 Hospital and St. Francis, at Henrico Doctors' I woke</p> <p>12 people up from anesthesia in the anesthesia care</p> <p>13 unit. At St. Francis Medical Center in Chesterfield</p> <p>14 I worked in the Adult ICU and was also on the</p> <p>15 in-house code team. So it's a little bit different.</p> <p>16 So occasionally, in the ICU there we would get</p> <p>17 patients withdrawing from alcohol and/or other</p> <p>18 substances.</p> <p>19 Q When you say "occasional" what does that</p> <p>20 mean to you?</p> <p>21 A One every 2 to three months. It wasn't</p> <p>22 very often at that hospital.</p> <p>23 Q So maybe you're talking 2 or three a year?</p> <p>24 A I would say that, yes.</p> <p>25 Q Okay. Then it says you worked for Travel</p>	<p style="text-align: right;">Page 28</p> <p>1 A It is, yes.</p> <p>2 Q Okay. So you don't treat other than field</p> <p>3 treatment if you're giving somebody Narcan or</p> <p>4 starting an IV or doing something at the direction</p> <p>5 of a physician or under protocols you might have</p> <p>6 from, you know, the system you're working in. And</p> <p>7 then you're transporting to the hospital?</p> <p>8 A Exactly. We had algorithms on most every</p> <p>9 type of patient, and then we follow those algorithms</p> <p>10 that were set forth by our operational medical</p> <p>11 director.</p> <p>12 Q In that case, and other than doing that,</p> <p>13 you're not treating. You're stabilizing and</p> <p>14 transporting, getting them to the hospital as fast</p> <p>15 as you can in the best shape you can?</p> <p>16 A Exactly. I mean, some things you treat.</p> <p>17 Hypoglycemia you would treat with dextrose.</p> <p>18 Somebody in anaphylactic shock. I've had a couple</p> <p>19 of those. And we treat with epinephrine and IV</p> <p>20 Benadryl.</p> <p>21 Q So you still treat but then transport. But</p> <p>22 you treat in order to get them transported.</p> <p>23 A Correct.</p> <p>24 Q But you're treating in order to stabilize</p> <p>25 to transport?</p>
<p style="text-align: right;">Page 27</p> <p>1 Nursing. Why did you choose Travel Nursing? Seems</p> <p>2 kind of odd in your career history here.</p> <p>3 A Once again, prior to Progressive Nursing</p> <p>4 Stoppers I worked at Maryview Medical Center. And</p> <p>5 at Maryview Medical Center I just wanted to get out</p> <p>6 and do something more. I liked the variety. And</p> <p>7 with Progressive I got to bounce around to several</p> <p>8 hospitals, see how other hospitals ran. And I got a</p> <p>9 bit of diverse education, experience from different</p> <p>10 hospitals.</p> <p>11 Q Did you leave Maryview voluntarily?</p> <p>12 A I did.</p> <p>13 Q Did you leave them under any type of</p> <p>14 investigation?</p> <p>15 A No. They were very angry with me when I</p> <p>16 left.</p> <p>17 Q Then you worked for Chesapeake Fire</p> <p>18 Department as a paramedic; right?</p> <p>19 A I did, yes.</p> <p>20 Q So I assume as a paramedic from 91 to 97</p> <p>21 you see all types of things?</p> <p>22 A You can say that. You do see quite a bit</p> <p>23 of things.</p> <p>24 Q But as a paramedic, it's stabilize and</p> <p>25 transport; right?</p>	<p style="text-align: right;">Page 29</p> <p>1 A Correct.</p> <p>2 Q I see the various classes you took at</p> <p>3 Tidewater Community College. I don't see any</p> <p>4 specific classes on treating patients going through</p> <p>5 detox; correct? I'm looking at your resume here.</p> <p>6 A No specific classes. It's what you learn</p> <p>7 in your nursing education as well as paramedic</p> <p>8 education.</p> <p>9 Q Have you ever treated a patient when</p> <p>10 they're going through detox or anything else in a</p> <p>11 jail?</p> <p>12 MS. DAMICO: Asked and answered.</p> <p>13 THE WITNESS: In a jail, no.</p> <p>14 BY MR. CHAPMAN:</p> <p>15 Q In a prison?</p> <p>16 MS. DAMICO: While they're in the prison?</p> <p>17 THE WITNESS: The only reason I'm</p> <p>18 hesitating is we have a prison floor in our</p> <p>19 hospital I do occasionally work in. And I do</p> <p>20 not recall DT patients there because they've</p> <p>21 usually been in prison for a while. It's</p> <p>22 Virginia Department of Corrections. So they've</p> <p>23 normally been there so one would assume they've</p> <p>24 not been able to get alcohol while in prison.</p> <p>25</p>

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<p style="text-align: right;">Page 30</p> <p>1 BY MR. CHAPMAN:</p> <p>2 Q While working in any one of your medical</p> <p>3 positions you sometimes have to rely on family</p> <p>4 members to give you information?</p> <p>5 A Sure.</p> <p>6 Q Do they 100 percent of the time always</p> <p>7 tell you the truth?</p> <p>8 A No.</p> <p>9 Q Do patients 100 percent of the time always</p> <p>10 tell you the truth?</p> <p>11 A Some patients do tell you the truth. Some</p> <p>12 patients don't tell you the truth.</p> <p>13 Q And sometimes you rely on information</p> <p>14 provided by another medical provider; correct?</p> <p>15 A Correct.</p> <p>16 Q Information that's relayed to you by</p> <p>17 another medical provider isn't always 100 percent of</p> <p>18 the time exactly what took place; correct?</p> <p>19 A That is true.</p> <p>20 Q In fact, in college you've probably seen</p> <p>21 this where you've gone through studies where one</p> <p>22 person learns a fact, tells another, tells another,</p> <p>23 tells another. By the time it gets to the end of</p> <p>24 the line it's nothing as it started out to be;</p> <p>25 right?</p>	<p style="text-align: right;">Page 32</p> <p>1 A That's correct.</p> <p>2 Q Did you ever carry out -- strike that.</p> <p>3 As a nurse, have you ever been</p> <p>4 required to carry out orders from a provider -- and</p> <p>5 when I say "provider" throughout this whole dep I'm</p> <p>6 talking MDs, nurse practitioners, all those folks.</p> <p>7 I'm not referring necessarily to nurses; okay?</p> <p>8 A Okay.</p> <p>9 Q Do you ever carry out providers' orders?</p> <p>10 A Yes.</p> <p>11 Q In fact, that's a significant part of a</p> <p>12 nursing function, is to ensure that the providers'</p> <p>13 orders are carried out?</p> <p>14 A Yes.</p> <p>15 Q Are nurses required under your Nurse</p> <p>16 Practice Act to accurately carry out providers'</p> <p>17 orders?</p> <p>18 A We're required to ask questions if the</p> <p>19 order does not make sense; clarify the order, if you</p> <p>20 will, from a provider. But once that clarification</p> <p>21 is suffice, then yes, you carry the order out</p> <p>22 exactly as written.</p> <p>23 Q Nurses are not in the power to change the</p> <p>24 orders of a provider; are they?</p> <p>25 A Correct. You cannot change the order</p>
<p style="text-align: right;">Page 31</p> <p>1 A Right. I did that in my communications</p> <p>2 file. That's exactly right.</p> <p>3 Q And sometimes that happens with nurses?</p> <p>4 A Correct.</p> <p>5 Q Sometimes it could happen with any number</p> <p>6 of people like correction's officers?</p> <p>7 A I would think so. I've never been a</p> <p>8 correction's officer but.</p> <p>9 Q It could happen between lawyers?</p> <p>10 A Sure.</p> <p>11 Q It's just part of the human problem of</p> <p>12 communicating; right?</p> <p>13 A Correct.</p> <p>14 Q Okay. You're not here to give any</p> <p>15 testimony relating to Nurse Sherwood; correct?</p> <p>16 A I'm not.</p> <p>17 Q You're not here to testify as to proximate</p> <p>18 cause; correct?</p> <p>19 A I don't believe so.</p> <p>20 Q You're not here to testify as to damages;</p> <p>21 correct?</p> <p>22 A I don't believe so.</p> <p>23 Q You're here to testify, by reading your</p> <p>24 report, as to what you believe to be standard of</p> <p>25 care violations for the nursing staff?</p>	<p style="text-align: right;">Page 33</p> <p>1 unless you're given another order to counter that</p> <p>2 order.</p> <p>3 Q Unless a physician or unless a provider is</p> <p>4 giving another order to counter that order?</p> <p>5 A Exactly. The last order is the one that's</p> <p>6 followed.</p> <p>7 Q Even if the nurse disagrees with the order</p> <p>8 -- I understand that they can talk to the provider,</p> <p>9 but even if they disagree with it they still have to</p> <p>10 carry it out; correct?</p> <p>11 A Unless they feel that that order is going</p> <p>12 to cause harm to the patient then at that point you</p> <p>13 do not carry it out. You talk to the providers,</p> <p>14 and/or that's when you would kind of advocate the</p> <p>15 chain of command and have a conversation about the</p> <p>16 order. So if you're telling me to give a non</p> <p>17 diabetic patient 50 units of insulin I'm going to</p> <p>18 have a problem with that because their blood sugar</p> <p>19 is normal, and they're not diabetic. But if the</p> <p>20 physician stands there and demands you to give it,</p> <p>21 I'm not doing it. That's dangerous. So if that</p> <p>22 answers your question.</p> <p>23 Q So I understand the concept if the order</p> <p>24 is clearly dangerous to someone. In this case the</p> <p>25 person's not a diabetic, and the physician isn't</p>

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<p style="text-align: right;">Page 34</p> <p>1 ordering to give the patient insulin. But that's an 2 extreme. If the physician is saying give this drug 3 to a patient, give this milligrams to a patient, I 4 want to give them three times a day, twice a day, 5 whatever. Those orders, while you might talk to the 6 provider, those orders have to be carried out. Even 7 if you think a different drug should be given? 8 A Oh, sure. I mean, if they're choosing one 9 drug over another I have no problems with that. 10 What I'm saying is if I feel the order is dangerous 11 to the patient if that order is carried out, then I 12 have a duty to question the physician about the 13 order. 14 Q How many times in the last year have you 15 gone, let's say, over the head of the physician to 16 the chairman of the department and said this 17 physician is potentially trying to harm this patient 18 by giving this drug or this patient? 19 A I have never had to get to that level yet. 20 But I will tell you our CEO has provided his pager 21 number to us, and if we have problems with our 22 attending we are to go to him. 23 Q That's not my question. My question is, 24 how many times have you gone to the chief of the 25 department complaining about a physician prescribing</p>	<p style="text-align: right;">Page 36</p> <p>1 Q In your hospital if a doctor wants 2 something done right now, like wants somebody given 3 medication right now, they do write "stat"; correct? 4 A If they want -- they'll write stat or 5 first dose now. 6 Q Okay. Something to indicate to the 7 provider that it's got to go out right now? 8 MS. DAMICO: To the nurse. 9 BY MR. CHAPMAN: 10 Q To the nurse? 11 A Correct. I mean, if they're ordering 12 blood pressure medicine for that day if the patient 13 didn't get his blood pressure medicine. I did that 14 the other day. They ordered it but it didn't go out 15 until the following day. So I asked them did they 16 want to give a dose today or just let it ride until 17 tomorrow? And that's the questioning attitude that 18 you have. And they said, oh, no. I meant to order 19 it today. And they went back in and ordered a dose 20 for first dose now. 21 Q But the physician could have said, no, 22 tomorrow's fine? 23 A Oh, sure. They could have said it. 24 Q And then you would have given it tomorrow? 25 A Absolutely.</p>
<p style="text-align: right;">Page 35</p> <p>1 some type of medication or treatment that you 2 thought was dangerous to the patient? 3 A And I said none. 4 Q Okay. You felt that you would go to the 5 physician, and say, hey, I've had experience with 6 this before. I think could you consider this. 7 Could we possibly give this. I've been with this 8 patient for the last three days and kind of know 9 him. You would share your beliefs, your knowledge, 10 and your training with the physician? 11 A Sure. We call it a questioning attitude. 12 If the order that you just want clarification, 13 that's what you ask them. You do not have to be 14 vindictive and sarcastic in asking the question just 15 for clarification. 16 Q Is it a violation of the Nurse Practice 17 Act for a nurse to change the provider's order 18 without permission from the provider? 19 A That would be, yes. 20 Q When providers are ordering medication 21 it's up to the provider for what the dose is, how 22 many times a day it's given; correct? 23 A It is. 24 Q It's not up to the nurse? 25 A No.</p>	<p style="text-align: right;">Page 37</p> <p>1 Q You've had several cases where the issue 2 was why something wasn't carried out stat; correct? 3 A As a medical legal review? 4 Q Yes. 5 A Correct. 6 Q I have read quite a few of them. And your 7 position has always been if the physician writes 8 stat, it must be carried out stat? 9 A That is true. 10 Q If the physician doesn't write stat then 11 it doesn't have to be carried out stat? 12 A That is true. 13 Q And in fact, you testified once before 14 that stat is carried out based on policies, customs, 15 practices of that health care unit? 16 A I'm not sure I understand what you're 17 asking. 18 Q Sure. If medication typically is given at 19 10:00 and then somebody writes an order at 2:00 in 20 the morning and it doesn't say stat you'll give it 21 at 10:00? 22 A Correct. 23 Q Do patient's have rights with respect to 24 their medical treatment? 25 A They do.</p>

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<p style="text-align: right;">Page 38</p> <p>1 Q Is it permissible for a nurse to force a</p> <p>2 patient to accept medical care?</p> <p>3 A Not without a judge's order.</p> <p>4 Q Even if I as the patient know, because you</p> <p>5 told me, that my refusal could be detrimental, might</p> <p>6 lead to death, impairment, whatever, I still have</p> <p>7 the right to say no?</p> <p>8 A You have the right to say no.</p> <p>9 Q And if I'm found to be incompetent; maybe</p> <p>10 a judge might say, no, you have to get that care and</p> <p>11 treatment; right?</p> <p>12 A Exactly. So if patients are refusing, if</p> <p>13 they do not have capacity, we will get our</p> <p>14 psychiatrist to come in, evaluate them. If they</p> <p>15 have capacity and find they've refused, once they're</p> <p>16 educated on why we're doing this treatment or</p> <p>17 medication then they're allowed to refuse. But if</p> <p>18 they're determined incapacitated then obviously</p> <p>19 they're not able to refuse and a judge can get</p> <p>20 involved, family can get involved, and it can become</p> <p>21 a mess at that point.</p> <p>22 Q But as long as somebody is not impaired to</p> <p>23 the point that they're not incapacitated they have</p> <p>24 the right to say no; correct?</p> <p>25 A As long as they're oriented, yes.</p>	<p style="text-align: right;">Page 40</p> <p>1 custody order.</p> <p>2 Q You can do that after a physician or after</p> <p>3 a psychiatrist has looked or a physician has looked</p> <p>4 and said something?</p> <p>5 A No, no.</p> <p>6 Q Okay.</p> <p>7 A Not in the State of Virginia. I don't</p> <p>8 know if that's Michigan. But in Virginia we can do</p> <p>9 a 2-hour ECO.</p> <p>10 Q Okay.</p> <p>11 A And that's when we start the TPO process</p> <p>12 and normally have it completed in that 2 hours.</p> <p>13 Q Let me ask you this. In Michigan do you</p> <p>14 believe you have an understanding of the involuntary</p> <p>15 commitment rules in Michigan?</p> <p>16 A If you're arguing with me over what I just</p> <p>17 said then I would say no.</p> <p>18 Q I am. I just wanted to make sure that</p> <p>19 you're not saying you know Michigan rule.</p> <p>20 When you're questioning a patient</p> <p>21 about whatever history, a patient has the right to</p> <p>22 either give you a truthful answer or not a truthful</p> <p>23 answer; right?</p> <p>24 A Sure. I mean, a patient can give whatever</p> <p>25 answer they want to.</p>
<p style="text-align: right;">Page 39</p> <p>1 Q Well, that would be as long as they're not</p> <p>2 impaired such that they don't have the capacity to</p> <p>3 make a decision they can say no; correct?</p> <p>4 A That would be correct.</p> <p>5 Q In fact, patients can walk out of a</p> <p>6 hospital. If they don't want the treatment, they</p> <p>7 don't like what's going on, if they can get up and</p> <p>8 walk, they can get up and walk right out; right?</p> <p>9 A They sure can.</p> <p>10 Q And you as a nurse or provider might think</p> <p>11 this is terrible. That person is going to die in 8</p> <p>12 hours, whatever. But there's nothing you can do</p> <p>13 about it. If they want to leave they can leave.</p> <p>14 Short of getting a court order.</p> <p>15 A That's what I was going to say. If you</p> <p>16 know they're going to have a detrimental outcome by</p> <p>17 their actions then you can put them under medical</p> <p>18 TPO, and you can have a judge come. And our crisis</p> <p>19 people will come in and evaluate them and a judge</p> <p>20 would have say so. And at that point we can keep</p> <p>21 them against their wishes.</p> <p>22 Q You could. But until that happens you</p> <p>23 can't imprison somebody in your facility, lock the</p> <p>24 door and say they have to stay here; can you?</p> <p>25 A No, we can't. It's called an emergency</p>	<p style="text-align: right;">Page 41</p> <p>1 Q The patient can even refuse to answer the</p> <p>2 question if they want?</p> <p>3 A They could.</p> <p>4 Q Sometimes patients don't want a medical</p> <p>5 provider to know some of their medical history for</p> <p>6 whatever reason; right?</p> <p>7 A Correct.</p> <p>8 Q When a patient fails to answer questions</p> <p>9 or a question honestly, sometimes that can result in</p> <p>10 negative consequences for the patient.</p> <p>11 A It could lead to negative consequences,</p> <p>12 yes.</p> <p>13 Q Often times the history that one receives</p> <p>14 from the patient has a big impact on the treatment</p> <p>15 plan created?</p> <p>16 A The information received from the patient?</p> <p>17 Q From the patient, has a big impact on the</p> <p>18 treatment plan created?</p> <p>19 A Yes. It has an impact on the patient.</p> <p>20 Q When someone comes into your facility, say</p> <p>21 a hospital where you work, the hospital sometimes</p> <p>22 will run objective tests like x-rays, MRIs, draw</p> <p>23 blood, that type thing; right?</p> <p>24 A Correct.</p> <p>25 Q Other than that -- and a physical exam.</p>

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<p style="text-align: right;">Page 42</p> <p>1 Other than that, the hospital has to gain</p> <p>2 information from talking to the patient or their</p> <p>3 family members or maybe looking at outside medical</p> <p>4 records, that type of thing?</p> <p>5 A We will, yes.</p> <p>6 Q And often times, let's say the emergency</p> <p>7 room when someone comes in, the only people</p> <p>8 available are the individual or maybe a family</p> <p>9 member or a friend that might be accompanying them?</p> <p>10 A Sometimes, yes.</p> <p>11 Q And if none of them tell you the truth</p> <p>12 you're left with the information they gave you and</p> <p>13 whatever objective testing or exams that you could</p> <p>14 do or the provider could do?</p> <p>15 A Sure. I mean, also we can look at getting</p> <p>16 medical records from other facilities. If they've</p> <p>17 been in our facility before, obviously, we catalog</p> <p>18 admittances to the hospital so we can look back at</p> <p>19 past medical records.</p> <p>20 Q In obtaining outside medical records, that</p> <p>21 takes some time?</p> <p>22 A Sometimes yes.</p> <p>23 Q And again, a delayed treatment plan can</p> <p>24 sometimes have negative consequences to the patient;</p> <p>25 correct?</p>	<p style="text-align: right;">Page 44</p> <p>1 A Correct.</p> <p>2 Q Do you agree that hospital procedures are</p> <p>3 not the standard of care, they're guidelines</p> <p>4 provided by the hospital?</p> <p>5 A The policies and procedures?</p> <p>6 Q The hospital's policies and procedures do</p> <p>7 not define the standard of care, they're the</p> <p>8 hospital's policies and procedures?</p> <p>9 MS. DAMICO: His hospital's?</p> <p>10 BY MR. CHAPMAN:</p> <p>11 Q Any hospital?</p> <p>12 A Hospital policies and procedures, sure,</p> <p>13 aren't the standard of care. But they are kind of a</p> <p>14 requirement of your practice within the hospital</p> <p>15 pertaining to those policies.</p> <p>16 Q Well, I understand that, that employees</p> <p>17 should follow policies and procedures. But that's</p> <p>18 not my question. My question is, the hospital or an</p> <p>19 emergency room or anybody that employs health</p> <p>20 practitioners, no matter what their policies and</p> <p>21 procedures are, those do not form the standard of</p> <p>22 care for the health care provider; correct?</p> <p>23 A Correct.</p> <p>24 Q Now, policies and procedures may</p> <p>25 accurately reflect the standard of care but they're</p>
<p style="text-align: right;">Page 43</p> <p>1 A It could.</p> <p>2 Q Is a patient responsible for their failure</p> <p>3 to give honest information that then results in</p> <p>4 delayed treatment plan?</p> <p>5 MS. DAMICO: I'm going to object to form</p> <p>6 and foundation. It calls for a legal</p> <p>7 conclusion.</p> <p>8 THE WITNESS: It depends on their</p> <p>9 orientation status. If they're disoriented,</p> <p>10 obviously, they can't be held responsible for</p> <p>11 what they say. If they are oriented and they</p> <p>12 understand that misinformation can result in a</p> <p>13 bad outcome, sure.</p> <p>14 BY MR. CHAPMAN:</p> <p>15 Q You drafted a report; correct?</p> <p>16 A I did.</p> <p>17 Q In the report in the first line -- well,</p> <p>18 do you have your report?</p> <p>19 A Yes, sir.</p> <p>20 Q The second line of your report that says</p> <p>21 your giving, My professional medical opinions as</p> <p>22 they relate to the standard of care that relate to</p> <p>23 nursing practice.</p> <p>24 That's the intent of this report and</p> <p>25 that's what your opinions are related to; correct?</p>	<p style="text-align: right;">Page 45</p> <p>1 not required to?</p> <p>2 A That would be true. Policies and</p> <p>3 procedures are more based on evidence based practice</p> <p>4 and that -- more often than not it does follow the</p> <p>5 standard of care. But I guess it's not required to.</p> <p>6 And, you know, they're there to protect the patient</p> <p>7 and the staff members as well.</p> <p>8 Q Well, we won't debate why they're there.</p> <p>9 They could be there to protect the hospital; right?</p> <p>10 A Sure.</p> <p>11 Q They could be there to protect the</p> <p>12 providers; correct?</p> <p>13 A Sure. The patients and providers, yes.</p> <p>14 Q I misunderstood. Did you say patients are</p> <p>15 providers or patients or providers?</p> <p>16 A And providers.</p> <p>17 Q And providers. Okay. It says here that</p> <p>18 you reviewed medical records, records from Spectrum,</p> <p>19 there's a whole list of items here. Depositions.</p> <p>20 Did you review every single word of everything that</p> <p>21 you listed here?</p> <p>22 A I do not think that I reviewed every</p> <p>23 single word of everything that's listed there. This</p> <p>24 is a lot of information.</p> <p>25 Q And that's what I'm getting to. There's a</p>

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<p style="text-align: right;">Page 46</p> <p>1 whole bunch of depositions listed here. Did you</p> <p>2 read every single deposition?</p> <p>3 A I did read depositions.</p> <p>4 Q Did you read every single deposition</p> <p>5 listed here?</p> <p>6 A Yes.</p> <p>7 Q Did you read it word for word from page</p> <p>8 one to page whatever it ends?</p> <p>9 A Yes.</p> <p>10 Q Okay. Did you read -- how much time did</p> <p>11 you spend in total?</p> <p>12 A I'm not sure how many hours.</p> <p>13 Q How much time did you bill for?</p> <p>14 MS. DAMICO: (Document proffered to</p> <p>15 Witness.)</p> <p>16 MR. SMIT: While they're doing that we're</p> <p>17 on the February 2 document; right?</p> <p>18 MS. DAMICO: Yes. That's the only report.</p> <p>19 MR. SMIT: Okay.</p> <p>20 THE WITNESS: This bill is for 40 hours.</p> <p>21 BY MR. CHAPMAN:</p> <p>22 Q 40 hours total up until today or up until</p> <p>23 yesterday? I saw you reading that so we'll exclude</p> <p>24 that. 40 hours up until the time you came here</p> <p>25 yesterday?</p>	<p style="text-align: right;">Page 48</p> <p>1 A Yes.</p> <p>2 Q Okay. And you read all the Supplemental</p> <p>3 Answers and the Answers for Corizon and Supplemental</p> <p>4 Answers; correct?</p> <p>5 A I read through them. And as I said, I</p> <p>6 don't believe I read every single word. If it</p> <p>7 didn't kind of relate to this case I would say I</p> <p>8 glossed over that part.</p> <p>9 Q The Corizon Supplemental Answers and</p> <p>10 Answers? What are you referring to when you say you</p> <p>11 didn't read every word?</p> <p>12 A The Deposition Exhibits 1 through 144.</p> <p>13 The depositions I did read and the medical records</p> <p>14 from the jail.</p> <p>15 Q But you didn't look through all the</p> <p>16 exhibits?</p> <p>17 A Well, they're covered within the</p> <p>18 depositions so I did look at them. But as you're</p> <p>19 stating word for word, not necessarily, no.</p> <p>20 Q So you did look at all 144 depositions as</p> <p>21 they -- sorry -- exhibits as they were referred to</p> <p>22 in the depositions?</p> <p>23 A I can't, I cannot tell you honestly that I</p> <p>24 looked at every single one, but I feel like I looked</p> <p>25 at every single one.</p>
<p style="text-align: right;">Page 47</p> <p>1 A 40 hours total is what I invoiced for, and</p> <p>2 then I have 10 or so hours of preparation to speak</p> <p>3 to her (indicates) yesterday.</p> <p>4 Q Okay. So are you saying you either billed</p> <p>5 or are billing 50 hours total?</p> <p>6 A Correct.</p> <p>7 Q How many pages do you read a minute?</p> <p>8 A I read through it as fast as I can.</p> <p>9 Q How fast was that?</p> <p>10 A I mean, I can get through 2 pages a</p> <p>11 minute. About that. Sometimes you read slower.</p> <p>12 Sometimes you read faster because --</p> <p>13 Q That's all the question. Just how fast</p> <p>14 you read. So you read all the issues. You read the</p> <p>15 medical records from Spectrum, the medical records</p> <p>16 from the jail, Plaintiff's Complaint, Notice of</p> <p>17 Intent, all of the affidavits, the meritorious</p> <p>18 defense, all of these depositions. There's Kent</p> <p>19 County surveillance footage. Did you watch that</p> <p>20 footage?</p> <p>21 A I believe I did. I don't know how many</p> <p>22 hours of footage there is. I feel like I watched</p> <p>23 the entire footage.</p> <p>24 Q And you did all this in 50 hours? That's</p> <p>25 your testimony?</p>	<p style="text-align: right;">Page 49</p> <p>1 Q I mean, I don't want to be argumentative.</p> <p>2 But earlier you said you did read every single word.</p> <p>3 Now you're not sure that you did?</p> <p>4 MS. DAMICO: Objection. He never said he</p> <p>5 read every single word.</p> <p>6 MR. CHAPMAN: You can object to form and</p> <p>7 foundation.</p> <p>8 BY MR. CHAPMAN:</p> <p>9 Q You can answer the question.</p> <p>10 A No, I didn't. I said I glossed over.</p> <p>11 Q Okay.</p> <p>12 A I said I read a lot of information from</p> <p>13 this record. And I can't guarantee you that I did</p> <p>14 read every single word because I don't feel like I</p> <p>15 did.</p> <p>16 Q Okay. Under, Employee Orientation</p> <p>17 Training Manuals A through 8A, did you read every</p> <p>18 single word of all those listed?</p> <p>19 A Every single word, no.</p> <p>20 Q Would it be fair to say that you read some</p> <p>21 and glossed over others?</p> <p>22 A Correct.</p> <p>23 Q And then there's Kent County Policies and</p> <p>24 Procedures. Did you read every one of them? Or did</p> <p>25 you read some, gloss over others?</p>

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<p style="text-align: right;">Page 50</p> <p>1 A I did not read every one of those.</p> <p>2 Q Okay. Have you ever done any surveying</p> <p>3 work for NCHC, National Commission of Correctional</p> <p>4 Health Care?</p> <p>5 A I have not.</p> <p>6 Q Have you ever, outside of this case ever</p> <p>7 reviewed their guidelines?</p> <p>8 A I have not.</p> <p>9 Q Including this case have you ever spoken</p> <p>10 to anyone from NCHC?</p> <p>11 A I have not.</p> <p>12 Q Have you read any of the NCHC Guidelines?</p> <p>13 Not Corizon guidelines or Kent County guidelines but</p> <p>14 guidelines from NCHC?</p> <p>15 A I have.</p> <p>16 Q You have. And the guidelines you read,</p> <p>17 tell me how you read those. Did you read all of the</p> <p>18 notes and implementation and commentary? Or did you</p> <p>19 just read the policy or the guideline?</p> <p>20 A The guideline.</p> <p>21 Q Did you look any further as to how NCHC</p> <p>22 interprets that as to where ancillary documents that</p> <p>23 talk about how these things are interpreted?</p> <p>24 A I did not.</p> <p>25 Q Okay. Did you talk to any surveyors about</p>	<p style="text-align: right;">Page 52</p> <p>1 through detox; right?</p> <p>2 A Or potentially, yes.</p> <p>3 Q What do you mean by "or potentially?"</p> <p>4 A If somebody has an alcohol history then</p> <p>5 sometimes the provider will start them on CIWA</p> <p>6 scoring, and we do it every 4 hours. So even though</p> <p>7 they're showing zero signs by CIWA score zero, still</p> <p>8 nonetheless, I get an icon every 4 hours to chart a</p> <p>9 zero score.</p> <p>10 Q CIWA scoring is pretty much universal?</p> <p>11 A From what I understand, yes.</p> <p>12 Q And it deals with people going through</p> <p>13 alcohol withdrawal and benzodiazepine withdrawal?</p> <p>14 A Sure. And there's opiate withdrawals.</p> <p>15 But the CIWA is just only for alcohol.</p> <p>16 Q I'm confused. The CIWA is for</p> <p>17 benzodiazepine and alcohol. But COWS is for opioid;</p> <p>18 correct?</p> <p>19 A Yes. CIWA is for -- I've not done a</p> <p>20 benzodiazepine withdrawal. I've only done alcohol.</p> <p>21 Q And in all those you've used the CIWA</p> <p>22 score?</p> <p>23 A Correct.</p> <p>24 MS. DAMICO: Can we just clarify for the</p> <p>25 record CIWA-Ar is for alcohol.</p>
<p style="text-align: right;">Page 51</p> <p>1 how they would review a particular policy?</p> <p>2 A No.</p> <p>3 Q Or guideline?</p> <p>4 A No.</p> <p>5 Q The Infirmary Manual 2015, did you read</p> <p>6 that completely?</p> <p>7 A I did not.</p> <p>8 Q And you say your reference material was</p> <p>9 Lippincott Manual of Nursing Practices, about 1,120</p> <p>10 pages. You didn't read every single word of that</p> <p>11 manual; did you?</p> <p>12 A I did not.</p> <p>13 Q Did you rely on a particular section or</p> <p>14 sections with respect to this case?</p> <p>15 A Yes.</p> <p>16 Q Which were they?</p> <p>17 A That would be alcohol withdrawal and CIWA.</p> <p>18 Q Now, the CIWA protocol stands for what?</p> <p>19 A Clinical Institute Withdrawal Assessment.</p> <p>20 Q Did you use that before?</p> <p>21 A More times than you can imagine.</p> <p>22 Q Well, I like to imagine. I would be</p> <p>23 interested.</p> <p>24 A In my lifetime I would say 500.</p> <p>25 Q Okay. You use it when somebody is going</p>	<p style="text-align: right;">Page 53</p> <p>1 BY MR. CHAPMAN:</p> <p>2 Q In your report you reviewed the items we</p> <p>3 talked about. And then you gave some opinions</p> <p>4 relative to several nurses that did provide care to</p> <p>5 Mr. Jones; correct?</p> <p>6 A Correct.</p> <p>7 Q Okay. You're not providing comments</p> <p>8 relating to anything that corrections does; correct?</p> <p>9 A Correct.</p> <p>10 Q You're not providing comments relating to</p> <p>11 corrections' policies or procedures or how those are</p> <p>12 implemented on the correction's side; correct?</p> <p>13 A Correct.</p> <p>14 Q You're limiting your testimony to the</p> <p>15 medical providers. The nurses, not the nurse</p> <p>16 practitioners; correct?</p> <p>17 A Not the medical providers. The nurses.</p> <p>18 Q Correct. Thank you. So you're limiting</p> <p>19 your testimony to the nurses; correct?</p> <p>20 A Yes, sir.</p> <p>21 Q In your -- tell you what. This is a good</p> <p>22 point. Can you show me, you have some notes and</p> <p>23 things there. Can I see those?</p> <p>24 A This is my report.</p> <p>25 Q Your CV, your report. Do you have any</p>

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<p style="text-align: right;">Page 54</p> <p>1 comments, any writing, any highlighting on your</p> <p>2 report?</p> <p>3 A (Reviews documents.) I've got a couple of</p> <p>4 dots and my signature.</p> <p>5 Q Do those dots mean anything to you?</p> <p>6 A It's just where I wrote that there was a</p> <p>7 standard of care deviation. So therefore, if you</p> <p>8 ask me a blanket statement of what are your opinions</p> <p>9 in this case I would be able to follow that report</p> <p>10 and give them to you. (Document proffered.)</p> <p>11 MS. DAMICO: So Ron, why don't we take a</p> <p>12 second. You flip through his records. Take a</p> <p>13 break. Because I want to talk to him about</p> <p>14 what stuff he left at home.</p> <p>15 MR. CHAPMAN: Why don't we do that.</p> <p>16 (After the break the following</p> <p>17 testimony resumed on the</p> <p>18 record:)</p> <p>19 BY MR. CHAPMAN:</p> <p>20 Q I want to show you some documents here,</p> <p>21 and I just want you to identify what they are. Some</p> <p>22 I'll mark as exhibits. (Document proffered.) This</p> <p>23 is a copy of your Affidavit of Meritorious Claim; is</p> <p>24 that correct?</p> <p>25 A (Reviews document.) Yes, sir.</p>	<p style="text-align: right;">Page 56</p> <p>1 Q And you signed it under a notary and it</p> <p>2 was notarized; right?</p> <p>3 A Correct.</p> <p>4 Q Why didn't you draft it? It was your</p> <p>5 opinion.</p> <p>6 A I find the majority of -- I've only ever</p> <p>7 drafted one, and that was about 3 or 4 weeks ago.</p> <p>8 Most of the attorneys that I've worked with in the</p> <p>9 past, whether it be defense or plaintiff, always</p> <p>10 write it and I either agree, disagree, I'll make</p> <p>11 changes. It's usually sent in word document.</p> <p>12 Q So the words --</p> <p>13 MR. SMIT: Let him finish.</p> <p>14 BY MR. CHAPMAN:</p> <p>15 Q Go ahead.</p> <p>16 A It's sent to me in a word document, and</p> <p>17 then I'll make changes if changes need to be made,</p> <p>18 and then I take to it the notary to be signed.</p> <p>19 Q So the words aren't actually your words.</p> <p>20 They're somebody else's words that were put on paper</p> <p>21 to reflect what you were thinking?</p> <p>22 A And what we spoke about.</p> <p>23 Q So the exact way that the words are put</p> <p>24 together are not your words?</p> <p>25 A No. They're my words. It's what I told</p>
<p style="text-align: right;">Page 55</p> <p>1 Q Did you make more than one draft?</p> <p>2 A No.</p> <p>3 Q So that's the one and only one, and you</p> <p>4 wrote it and you edited it for misspelled words,</p> <p>5 that kind of stuff and that was it?</p> <p>6 A I'm sorry. You said I wrote it?</p> <p>7 Q You wrote the Affidavit of Meritorious</p> <p>8 Claim; correct? Or did somebody write it for you?</p> <p>9 A No. Somebody wrote it for me, and then I</p> <p>10 went through, proof red it and agreed. It was a</p> <p>11 long, drawn-out case.</p> <p>12 Q So the Affidavit of Meritorious Claim was</p> <p>13 sent to you by Ms. Damico or somebody in her firm?</p> <p>14 A I think it was Ms. Sabatini.</p> <p>15 Q Is that someone from her firm?</p> <p>16 A Correct.</p> <p>17 Q Was the document drafted by Ms. Damico and</p> <p>18 then sent to you?</p> <p>19 A It was. It was a case conference, and</p> <p>20 then I spelled out all of my criticisms. And then</p> <p>21 it was drafted and sent to me.</p> <p>22 Q So you spoke to her about your criticisms,</p> <p>23 and then she drafted the affidavit of merit and then</p> <p>24 sent it to you and you signed it?</p> <p>25 A Notarized, yes.</p>	<p style="text-align: right;">Page 57</p> <p>1 the attorney when I first talked to them.</p> <p>2 Q So when you got it back with like a</p> <p>3 standard of care violation that might be there, it's</p> <p>4 your testimony that those are the exact words that</p> <p>5 you told Ms. Damico over the phone? Exact words?</p> <p>6 A I'm not going to say it's verbatim.</p> <p>7 Q Okay. So she listened to you and put the</p> <p>8 words in the language she wanted and sent it back to</p> <p>9 you and then you reviewed it?</p> <p>10 A Yes. And I made changes if changes need</p> <p>11 to be made.</p> <p>12 Q Well, what were those changes? That's</p> <p>13 what I asked you. This the one and only draft and</p> <p>14 you said yes. If there's changes I need them.</p> <p>15 A No. It was sent to me in word. I don't</p> <p>16 think there were changes. I agreed with everything</p> <p>17 that was in writing.</p> <p>18 Q Okay. So Ms. Damico listened to you,</p> <p>19 wrote it in her words, sent it to you, you signed</p> <p>20 it, and that was the end of it. And then it was</p> <p>21 produced in this case?</p> <p>22 A Correct.</p> <p>23 MR. CHAPMAN: Can we mark -- let's mark</p> <p>24 this as Exhibit -- what number?</p> <p>25 MS. DAMICO: What number are we on? I can</p>

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<p style="text-align: right;">Page 58</p> <p>1 tell you. We are on Exhibit No. 158.</p> <p>2 MR. CHAPMAN: Exhibit 158. And then put</p> <p>3 your initials.</p> <p>4 (The aforementioned document</p> <p>5 marked Deposition Exhibit No.</p> <p>6 158.)</p> <p>7 MS. DAMICO: I still have to send you guys</p> <p>8 the exhibits from Fintel. There's only 2 but</p> <p>9 I'll get them to you.</p> <p>10 MR. CHAPMAN: And can you count the</p> <p>11 exhibits and just put however many pages are</p> <p>12 there.</p> <p>13 MS. DAMICO: What's today's date? 6th?</p> <p>14 MR. CHAPMAN: 7th.</p> <p>15 MS. DAMICO: 7th.</p> <p>16 BY MR. CHAPMAN:</p> <p>17 Q There appear to be emails to and from you,</p> <p>18 Ms. Damico and maybe her legal assistant or</p> <p>19 paralegal? (Documents proffered.)</p> <p>20 A (Reviews documents.) Looks like it.</p> <p>21 Q Is that what they are?</p> <p>22 A Yes.</p> <p>23 Q To the best of your knowledge is that all</p> <p>24 of your email communication between you and</p> <p>25 Ms. Damico?</p>	<p style="text-align: right;">Page 60</p> <p>1 A They are.</p> <p>2 Q Okay. So the March 22nd, that looks like</p> <p>3 an initial retainer that was paid to you?</p> <p>4 A Correct.</p> <p>5 Q And it was for \$1,000?</p> <p>6 A Correct.</p> <p>7 Q And then the second document there looks</p> <p>8 to be an invoice that you submitted?</p> <p>9 A Correct.</p> <p>10 Q For \$5,500 something?</p> <p>11 A Correct.</p> <p>12 Q Has that invoice been paid?</p> <p>13 A It has been.</p> <p>14 Q Okay. And was that invoice inclusive of</p> <p>15 the \$1,000? Or should the \$1,000 be deducted? In</p> <p>16 other words was it 6,000 something that you billed</p> <p>17 or was it 5,000 something?</p> <p>18 A It was \$6,520.</p> <p>19 MR. CHAPMAN: Okay. Can you -- what's the</p> <p>20 next exhibit?</p> <p>21 MS. DAMICO: 160.</p> <p>22 MR. CHAPMAN: Can you mark those 2</p> <p>23 documents Number 160.</p> <p>24 (The aforementioned documents</p> <p>25 marked Deposition Exhibit No.</p>
<p style="text-align: right;">Page 59</p> <p>1 A To the best of my knowledge, yes.</p> <p>2 MR. CHAPMAN: What is the number?</p> <p>3 MS. DAMICO: 159?</p> <p>4 MR. CHAPMAN: Could you mark that Exhibit</p> <p>5 159 and put your initials and then count the</p> <p>6 pages. And I'm only doing it this way because</p> <p>7 we don't have the court reporter here.</p> <p>8 THE WITNESS: (Complies.)</p> <p>9 (The aforementioned documents</p> <p>10 marked Deposition Exhibit No.</p> <p>11 159.)</p> <p>12 BY MR. CHAPMAN:</p> <p>13 Q How many pages?</p> <p>14 A 25.</p> <p>15 Q Okay. All right. Set it over here.</p> <p>16 I'm (proffered) showing you 2</p> <p>17 documents. They look to be identical; right?</p> <p>18 They're just cover letters. Are they identical?</p> <p>19 A (Views documents.) Yes, they are</p> <p>20 identical.</p> <p>21 Q So let me show you a March 22, 2019 email</p> <p>22 and an invoice. Was the invoice attached to the</p> <p>23 email or are they two completely separate? We're</p> <p>24 dealing with money. Are they completely separate</p> <p>25 documents?</p>	<p style="text-align: right;">Page 61</p> <p>1 160.)</p> <p>2 MR. SMIT: I'm sorry. Was 159 the emails?</p> <p>3 MS. DAMICO: Yes. And 160 is billing</p> <p>4 records.</p> <p>5 MR. CHAPMAN: And that's a good way to</p> <p>6 identify that, billing records.</p> <p>7 BY MR. CHAPMAN:</p> <p>8 Q From our previous conversation you have</p> <p>9 maybe another 10 hours to bill?</p> <p>10 A I would anticipate that.</p> <p>11 Q Okay. And that would take you, not</p> <p>12 totally, but according to my paperwork up to the</p> <p>13 debt; right?</p> <p>14 A Yes.</p> <p>15 Q And then this is just an email sending you</p> <p>16 a flash drive; correct?</p> <p>17 A Correct.</p> <p>18 Q Not an email. Letter?</p> <p>19 A Correct.</p> <p>20 Q And the flash drive, do you have that with</p> <p>21 you?</p> <p>22 A I do not. But I have all of my records on</p> <p>23 it. I don't have -- I couldn't tell you if this was</p> <p>24 the actual one or not with the records, but I do</p> <p>25 have all of my records on (indicates) this flash</p>

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<p style="text-align: right;">Page 62</p> <p>1 drive for this case.</p> <p>2 Q Okay. And the records that you have on</p> <p>3 the flash drive in front of you, are they annotated</p> <p>4 or are those just the bare records?</p> <p>5 A No. That's the totality of the file.</p> <p>6 Q I understand that. But are they records</p> <p>7 in the totality of the file that are annotated by</p> <p>8 you?</p> <p>9 A No.</p> <p>10 Q Okay. So in other words -- let me explain</p> <p>11 myself further. Like a PDF document you can draw</p> <p>12 circles, make arrows, put in text boxes, call-outs.</p> <p>13 All that kind of thing. Those records do not carry</p> <p>14 any of that?</p> <p>15 A That is above my pay grade. I couldn't do</p> <p>16 that if my life depended on it. So no. The only</p> <p>17 thing that would be on here would be a draft report</p> <p>18 I believe is the only thing in word. Everything</p> <p>19 else is in PDF. And I don't know how to change</p> <p>20 anything in PDF. And there are no lines or circles.</p> <p>21 Q The draft report that Ms. Damico sent you?</p> <p>22 A No. That's the one I created.</p> <p>23 Q So this is your draft report, not the</p> <p>24 affidavit?</p> <p>25 A Correct.</p>	<p style="text-align: right;">Page 64</p> <p>1 sections that are highlighted for you. Do you know</p> <p>2 why that is?</p> <p>3 A She's just pointing out I believe what I</p> <p>4 was looking at and the camera angle.</p> <p>5 Q Or what she wanted you to look at;</p> <p>6 correct?</p> <p>7 A Correct.</p> <p>8 Q You didn't look at everything. You looked</p> <p>9 at what Ms. Damico wanted you to look at?</p> <p>10 A Correct.</p> <p>11 MR. CHAPMAN: Can we have that marked as</p> <p>12 the next exhibit.</p> <p>13 MS. DAMICO: 161. What's the date of that</p> <p>14 letter?</p> <p>15 THE WITNESS: August 21, 2020.</p> <p>16 (The aforementioned document</p> <p>17 marked Deposition Exhibit No.</p> <p>18 161.)</p> <p>19 MS. DAMICO: Letter from Damico, In Re:</p> <p>20 Video hard drive. Can we call it that?</p> <p>21 MR. CHAPMAN: Video hard drive, yes. We</p> <p>22 can call it that.</p> <p>23 BY MR. CHAPMAN:</p> <p>24 Q I want to show you what looks like a</p> <p>25 section that you copied from Lippincott. Can you</p>
<p style="text-align: right;">Page 63</p> <p>1 Q Now, when you created that draft report</p> <p>2 what did you do with it?</p> <p>3 A Probably sent it to her.</p> <p>4 Q Okay. Locate this right here. I'm going</p> <p>5 to pull that up in a moment so that I can -- just</p> <p>6 give me a few moments so that I can make a copy of</p> <p>7 that and make it an exhibit.</p> <p>8 MS. DAMICO: Sure. Do you want to make</p> <p>9 that an exhibit, that flash drive?</p> <p>10 MR. CHAPMAN: No.</p> <p>11 MR. SMIT: We didn't mark his February 2</p> <p>12 report; did we?</p> <p>13 MS. DAMICO: No. We have not done that</p> <p>14 yet.</p> <p>15 MR. SMIT: Okay.</p> <p>16 MS. DAMICO: Thank you, Peter.</p> <p>17 MR. SMIT: I just wanted to make sure I</p> <p>18 didn't miss it.</p> <p>19 BY MR. CHAPMAN:</p> <p>20 Q Let me show you a letter dated April 21st.</p> <p>21 It talks about sending you video footage regarding</p> <p>22 Jones?</p> <p>23 A Correct.</p> <p>24 Q Now, I see down at the bottom of the first</p> <p>25 page and on the second page there are particular</p>	<p style="text-align: right;">Page 65</p> <p>1 identify that? (Document proffered.)</p> <p>2 A ((Reviews document.) It's the Alcohol</p> <p>3 Withdrawal Management.</p> <p>4 Q Did you make any notations, earmarks,</p> <p>5 dots, any other figure?</p> <p>6 A I highlighted one line and that's all.</p> <p>7 Q Could you read the line you highlighted</p> <p>8 and tell me the page.</p> <p>9 A Page 6 of 11. And it states, "Patients</p> <p>10 with moderate or severe withdrawal symptoms should</p> <p>11 be monitored closely and treated and in an intensive</p> <p>12 care unit."</p> <p>13 Q The Lippincott Manual is a published work</p> <p>14 that's suggestive of what nurses should be doing;</p> <p>15 correct?</p> <p>16 A Correct.</p> <p>17 Q This particular document doesn't form the</p> <p>18 standard of care. This is somebody's</p> <p>19 interpretation, the interpretation of Wolters Kluwer</p> <p>20 Health, Inc. which copy wrote this in 2019. It's</p> <p>21 their interpretation of what should or shouldn't be</p> <p>22 done; correct?</p> <p>23 A It's practice guidelines, yes.</p> <p>24 Q Drafted by this one particular company?</p> <p>25 A Correct.</p>

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<p style="text-align: right;">Page 66</p> <p>1 Q Okay. There are multiple different</p> <p>2 companies, organizations, that put together</p> <p>3 guidelines suggestions. There's the Merck Manual.</p> <p>4 There's all kinds of different publications that</p> <p>5 suggest how to treat things; correct?</p> <p>6 A Correct.</p> <p>7 Q This is just one of them?</p> <p>8 A It is.</p> <p>9 Q Why is it the one you chose? Is it the</p> <p>10 one you're familiar with?</p> <p>11 A It is, yes.</p> <p>12 MR. CHAPMAN: Okay. What number are we</p> <p>13 on?</p> <p>14 MS. DAMICO: We're on 162.</p> <p>15 MR. CHAPMAN: Would you mark this as 162.</p> <p>16 And I don't believe we need to count the pages.</p> <p>17 Up at the top I think it says 1 of number of</p> <p>18 pages.</p> <p>19 MS. DAMICO: Manual section on alcohol.</p> <p>20 And alcohol section next to that?</p> <p>21 MR. CHAPMAN: There's actually a section</p> <p>22 number I think. Is there a section number?</p> <p>23 Maybe not.</p> <p>24 (The aforementioned document</p> <p>25 marked Deposition Exhibit No.</p>	<p style="text-align: right;">Page 68</p> <p>1 is?</p> <p>2 A Sure. It's a care guideline.</p> <p>3 Q Okay. And you have a section that's</p> <p>4 highlighted talking about access to care; correct?</p> <p>5 A Correct.</p> <p>6 Q Is it your opinion that Mr. Jones was</p> <p>7 denied access to care?</p> <p>8 A He wasn't provided access to care.</p> <p>9 Q Well, didn't he have nurses, nurse</p> <p>10 practitioners attend to him?</p> <p>11 A Later in his stay in the jail, yes.</p> <p>12 Q So you're talking about the first of 38</p> <p>13 hours or so in the jail before health care assessed</p> <p>14 and put him on a CIWA protocol? You're talking</p> <p>15 about that period of time he wasn't given access to</p> <p>16 care?</p> <p>17 A Correct.</p> <p>18 Q Do you know how much time that was in</p> <p>19 hours? Have you ever calculated that?</p> <p>20 A I believe I calculated 34 hours.</p> <p>21 MR. SMIT: Okay. Whatever the next number</p> <p>22 is, could we mark that?</p> <p>23 MS. DAMICO: 163. And that's an excerpt</p> <p>24 from, what did you call that?</p> <p>25 THE WITNESS: It's page 12 of 18 from</p>
<p style="text-align: right;">Page 67</p> <p>1 162.)</p> <p>2 MR. SMIT: I'm sorry. 162 is also a</p> <p>3 portion of Lippincott?</p> <p>4 MR. CHAPMAN: It's the chapter section on</p> <p>5 alcohol withdrawal.</p> <p>6 MR. SMIT: And 161 was what?</p> <p>7 MS. DAMICO: A letter from me to Furman</p> <p>8 containing the external hard drive with your</p> <p>9 surveillance.</p> <p>10 MR. SMIT: Okay.</p> <p>11 BY MR. CHAPMAN:</p> <p>12 Q Now let me show you a page that appears to</p> <p>13 have some statements from the NCCHC. Is that</p> <p>14 (proffered) a copy of a page from the NCCHC</p> <p>15 Guidelines?</p> <p>16 A (Reviews document.) It is not.</p> <p>17 Q What is it?</p> <p>18 A It's page 12 of 18 from your expert's</p> <p>19 disclosure.</p> <p>20 Q Okay. But do you know where they come</p> <p>21 from?</p> <p>22 A I'm sorry, what?</p> <p>23 Q Do you have any idea what the document</p> <p>24 that you're looking at, other than it came from one</p> <p>25 of defendant's experts, do you have any idea what it</p>	<p style="text-align: right;">Page 69</p> <p>1 defense expert disclosure. And that was</p> <p>2 Section J-A-01, Access to Care.</p> <p>3 (The aforementioned document</p> <p>4 marked Deposition Exhibit No.</p> <p>5 163.)</p> <p>6 BY MR. CHAPMAN:</p> <p>7 Q Now I have a document that you handed to</p> <p>8 me that's called Predictors of Severe Alcohol</p> <p>9 Withdrawal Syndrome Systematic Review and</p> <p>10 Meta-Analysis. Is that (proffered) something that</p> <p>11 you read?</p> <p>12 A (Reviews document.) It is.</p> <p>13 Q Did you read that prior to this case?</p> <p>14 A No.</p> <p>15 Q Is that specific research that you've done</p> <p>16 for this case?</p> <p>17 A Correct.</p> <p>18 Q Okay. Do you have anything -- so you have</p> <p>19 the first page or something highlighted. Other than</p> <p>20 that do you have anything highlighted or marked or</p> <p>21 annotated?</p> <p>22 A No.</p> <p>23 Q Why did you choose -- well, strike that.</p> <p>24 Were you provided that article by Ms. Damico?</p> <p>25 A We spoke about it some time ago.</p>

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<p style="text-align: right;">Page 70</p> <p>1 Q That's not the issue. Did she provide</p> <p>2 that article to you or give you the citation for you</p> <p>3 to read that article?</p> <p>4 A For the citation, yes.</p> <p>5 Q Okay. And then you pulled the article to</p> <p>6 read it?</p> <p>7 A Correct.</p> <p>8 Q Independent of Ms. Damico giving you that</p> <p>9 article to read why didn't you pull it on your own?</p> <p>10 A I did pull some articles on my own.</p> <p>11 Q That's not my question. I'm talking</p> <p>12 specifically about this document.</p> <p>13 MR. CHAPMAN: Why don't we number it right</p> <p>14 now if we could.</p> <p>15 MS. DAMICO: This is 164.</p> <p>16 MR. CHAPMAN: Could you mark that 164.</p> <p>17 MR. SMIT: What is it again, Ron?</p> <p>18 MR. CHAPMAN: It's an article regarding</p> <p>19 predictors of withdrawal. That's not the full</p> <p>20 title but.</p> <p>21 MR. SMIT: That's fine.</p> <p>22 (The aforementioned document</p> <p>23 marked Deposition Exhibit No.</p> <p>24 164.)</p> <p>25</p>	<p style="text-align: right;">Page 72</p> <p>1 THE WITNESS: Increased Severity of</p> <p>2 Alcohol Withdrawal in In-patient Alcoholics</p> <p>3 with Co-existing Anxiety Diagnosis.</p> <p>4 BY MR. CHAPMAN:</p> <p>5 Q So the question is, did Ms. Damico provide</p> <p>6 you either the citation to that exhibit, which is</p> <p>7 Number 165, or the actual document in your hand?</p> <p>8 A The citation.</p> <p>9 Q And then you looked it up; correct?</p> <p>10 A Correct.</p> <p>11 Q And is that note yours there that says --</p> <p>12 let me read it exactly. It says, "Do you have full</p> <p>13 article co-morbidity?"</p> <p>14 A No. This is Ms. Damico's handwriting from</p> <p>15 our meeting last night.</p> <p>16 Q Was she asking you if you pulled the full</p> <p>17 article referred to by the abstract?</p> <p>18 A That's what -- yes.</p> <p>19 Q Did you?</p> <p>20 A I couldn't find it.</p> <p>21 MR. SMIT: I'm sorry. I missed the</p> <p>22 answer.</p> <p>23 MR. CHAPMAN: He said he could not find</p> <p>24 it.</p> <p>25 MR. SMIT: Okay.</p>
<p style="text-align: right;">Page 71</p> <p>1 BY MR. CHAPMAN:</p> <p>2 Q Now, referring to 164, that specific</p> <p>3 article, you did not pull that article on your own</p> <p>4 independent of Ms. Damico directing you to; correct?</p> <p>5 A Can you say that one more time.</p> <p>6 Q You did not pull that article, review that</p> <p>7 article, independent of Ms. Damico sending it to you</p> <p>8 and suggesting you look at it?</p> <p>9 A She told me that DOI so I looked it up.</p> <p>10 So I would say, yes, to your question.</p> <p>11 Q Yes. I show you the next document is a</p> <p>12 British Journal of Addiction but it's only the</p> <p>13 abstract. (Document proffered.)</p> <p>14 MR. CHAPMAN: I believe that would be 165?</p> <p>15 MS. DAMICO: Yes.</p> <p>16 MR. CHAPMAN: Could you mark that at the</p> <p>17 bottom and then your initials.</p> <p>18 THE WITNESS: Yes.</p> <p>19 (The aforementioned document</p> <p>20 marked Deposition Exhibit No.</p> <p>21 165.)</p> <p>22 BY MR. CHAPMAN:</p> <p>23 Q Was that abstract provided to you by</p> <p>24 Ms. Damico?</p> <p>25 MS. DAMICO: What's the title?</p>	<p style="text-align: right;">Page 73</p> <p>1 BY MR. CHAPMAN:</p> <p>2 Q Now, independent of Ms. Damico asking you</p> <p>3 to look at Exhibit 165 you did not find it</p> <p>4 independently on your own to review; correct?</p> <p>5 A Correct.</p> <p>6 Q I'm going to show you another article here</p> <p>7 that says, "Diagnosis and Management of Acute</p> <p>8 Alcohol Withdrawal." (Document proffered.)</p> <p>9 MR. CHAPMAN: I believe this would be</p> <p>10 Exhibit 166.</p> <p>11 MS. DAMICO: Yes.</p> <p>12 MR. CHAPMAN: Would you mark Exhibit 166.</p> <p>13 THE WITNESS: (Complies.)</p> <p>14 (The aforementioned document</p> <p>15 marked Deposition Exhibit No.</p> <p>16 166.)</p> <p>17 BY MR. CHAPMAN:</p> <p>18 Q Now, Exhibit 166, was that a document or</p> <p>19 citation that was provided to you by Ms. Damico?</p> <p>20 A Yes. The citation would be.</p> <p>21 Q And from her giving you the citation you</p> <p>22 looked up the article?</p> <p>23 A Correct.</p> <p>24 Q And then on the side there, there's a</p> <p>25 sticky note that says something. What does it say?</p>

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<p style="text-align: right;">Page 74</p> <p>1 A Another peer reviewed study.</p> <p>2 Q And that was in Ms. Damico's handwriting?</p> <p>3 A Yes.</p> <p>4 Q And she gave that to you last night?</p> <p>5 A No. We spoke -- we talked last night and</p> <p>6 she wrote that sticky note on it.</p> <p>7 Q Why would she write another sticky note</p> <p>8 that says "another peer reviewed" article that she'd</p> <p>9 already given to you before last night? Can you</p> <p>10 explain the circumstances?</p> <p>11 A No. I printed it off before last night.</p> <p>12 Q Okay. Based on her giving you the</p> <p>13 citation?</p> <p>14 A Right. And she was reviewing it.</p> <p>15 Q But why would she write "another peer</p> <p>16 reviewed" article? Do you know?</p> <p>17 A I'm not sure. She was writing sticky</p> <p>18 notes. I'm not sure of everything she wrote.</p> <p>19 Q Okay.</p> <p>20 MS. DAMICO: I'm organized.</p> <p>21 MR. CHAPMAN: I believe this is going to</p> <p>22 be Exhibit 167.</p> <p>23 MS. DAMICO: Yes.</p> <p>24 MR. CHAPMAN: It's called Clinical</p> <p>25 Institute Withdrawal Assessment for Alcohol,</p>	<p style="text-align: right;">Page 76</p> <p>1 There are 2 sections. Is it 2 sections highlighted?</p> <p>2 A Three.</p> <p>3 Q Three. Could you read the first one?</p> <p>4 A Sure. "An important limitation of the</p> <p>5 CIWA-Ar is it's heavily subjective nature. Only 3</p> <p>6 out of 10 components: Tremor, paroxysmal sweats,</p> <p>7 agitation can be rated observational alone. The</p> <p>8 other 7 components require at least some discussion</p> <p>9 with the patient."</p> <p>10 Q Now, could you put a number 1 next to that</p> <p>11 so when we read the transcript we will know exactly</p> <p>12 what we mean by 1. Circle it and put your initials.</p> <p>13 A (Witness complies.)</p> <p>14 Q Now, was there another highlighted area on</p> <p>15 that document?</p> <p>16 A There is.</p> <p>17 Q Can you put a 2, circle it and put your</p> <p>18 initials and then read it for the record.</p> <p>19 A "The second limitation of CIWA-Ar was</p> <p>20 subtler. The patient was confused, disoriented so</p> <p>21 even in the absence of a communication barrier his</p> <p>22 responses might have been unreliable."</p> <p>23 Q Does that say that -- paraphrase, the</p> <p>24 patient might be confused, therefore his statements,</p> <p>25 comments might be unreliable?</p>
<p style="text-align: right;">Page 75</p> <p>1 Revised. Might be an unreliable tool in the</p> <p>2 management of alcohol withdrawal. (Document</p> <p>3 proffered.)</p> <p>4 Could you mark that as Exhibit 167.</p> <p>5 THE WITNESS: (Complies.)</p> <p>6 (The aforementioned document</p> <p>7 marked Deposition Exhibit No.</p> <p>8 167.)</p> <p>9 BY MR. CHAPMAN:</p> <p>10 Q Exhibit 167 was the document or citation</p> <p>11 to the document that was provided to you by</p> <p>12 Ms. Damico?</p> <p>13 A On this one, no.</p> <p>14 Q Okay. How did you arrive at that one?</p> <p>15 A A public search.</p> <p>16 Q Okay. So Exhibit 167 is part of your own</p> <p>17 research?</p> <p>18 A Correct.</p> <p>19 Q Okay. Do you have any highlighting on</p> <p>20 that document?</p> <p>21 A There are some highlighting.</p> <p>22 Q Look on the first page. The highlighting</p> <p>23 seems to be what? Just a citation down there?</p> <p>24 A The journal it came from.</p> <p>25 Q Okay. And then turn to the next page.</p>	<p style="text-align: right;">Page 77</p> <p>1 A Correct.</p> <p>2 Q Okay. Is there another section</p> <p>3 highlighted?</p> <p>4 A There is.</p> <p>5 Q Could you put a 3 and circle it with your</p> <p>6 initials and then read it into the record.</p> <p>7 A "Objective Alcohol Withdrawal Scale."</p> <p>8 Q And is that -- below that I see there's</p> <p>9 some gray area. Is that the scale that you're</p> <p>10 referring to?</p> <p>11 A Correct.</p> <p>12 Q Okay. Why did you highlight that?</p> <p>13 A It's objective versus subjective. So it's</p> <p>14 measurable data.</p> <p>15 Q So Section 3, the comments included in the</p> <p>16 gray area or the highlighted area below Comment No.</p> <p>17 3, are those subjective or objective?</p> <p>18 A They're objective.</p> <p>19 Q Okay. What are they? Could you identify</p> <p>20 them?</p> <p>21 A Sure. Vital signs as well as tremors and</p> <p>22 diaphoresis as well as agitation.</p> <p>23 Q So agitation, sweating, blood pressure and</p> <p>24 what was the fourth one?</p> <p>25 A Heart -- vital signs.</p>

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<p style="text-align: right;">Page 78</p> <p>1 Q Vital signs.</p> <p>2 A Heart rate and tremors.</p> <p>3 Q Those are all objective; correct?</p> <p>4 A Correct.</p> <p>5 Q Okay. Any other comments on there marked?</p> <p>6 A Not on this page.</p> <p>7 Q Look through the whole document. Is there</p> <p>8 any on subsequent pages?</p> <p>9 A The OAWS in the box. Do you want me to</p> <p>10 mark that?</p> <p>11 Q No.</p> <p>12 A All right. That's it in the document.</p> <p>13 Q Okay. And what's the number of that</p> <p>14 exhibit?</p> <p>15 A 167.</p> <p>16 Q And 167 is an exhibit that reflects</p> <p>17 independent research that you did apart from</p> <p>18 Ms. Damico sending you a citation?</p> <p>19 A Correct.</p> <p>20 Q Okay. You can set that aside. I believe</p> <p>21 now we're on Exhibit 168 which says, Recognition and</p> <p>22 Management of Withdrawal Delirium. And then in</p> <p>23 brackets it says, Delirium Tremens.</p> <p>24 MR. CHAPMAN: I believe that's 168. Could</p> <p>25 you mark that Exhibit 168 with your initials.</p>	<p style="text-align: right;">Page 80</p> <p>1 highlighted on there; correct?</p> <p>2 A There is.</p> <p>3 Q Those sections that are highlighted,</p> <p>4 without reading them, can you tell me why they were</p> <p>5 highlighted?</p> <p>6 A It was areas in which I felt that</p> <p>7 corroborated my standard of care opinions in this</p> <p>8 case.</p> <p>9 Q Can I see the document, please?</p> <p>10 A Sure. (Document proffered.)</p> <p>11 Q (Reviews document.) Now, I only have one</p> <p>12 document to share so I'm going to state some</p> <p>13 questions. If you actually want to see the</p> <p>14 document, that's fine.</p> <p>15 On the first page of this, which</p> <p>16 would be page 209 of the document, one of the areas</p> <p>17 you have highlighted says, "Withdrawal symptoms</p> <p>18 usually begin within 8 hours after blood alcohol</p> <p>19 level decreases."</p> <p>20 Is that one of the things you found</p> <p>21 in your research?</p> <p>22 A Yes.</p> <p>23 Q Now, do you agree that someone who is a</p> <p>24 long-term chronic alcoholic that their blood alcohol</p> <p>25 level reaches what's called a steady-state?</p>
<p style="text-align: right;">Page 79</p> <p>1 (Document proffered.)</p> <p>2 THE WITNESS: (Complies.)</p> <p>3 (The aforementioned document</p> <p>4 marked Deposition Exhibit No.</p> <p>5 168.)</p> <p>6 BY MR. CHAPMAN:</p> <p>7 Q Now, is 168 a document that you found</p> <p>8 doing your own research? Or is it a document that</p> <p>9 Ms. Damico either provided or gave you the citation</p> <p>10 to?</p> <p>11 A It was my research.</p> <p>12 Q Okay. The subject of 168 is DTs?</p> <p>13 A The Recognition and management of</p> <p>14 withdrawal of delirium tremens.</p> <p>15 Q When you say withdrawal of delirium</p> <p>16 tremens do you mean delirium tremens that result</p> <p>17 from someone going through alcohol withdrawal?</p> <p>18 A Yes.</p> <p>19 Q Okay. Are there other types of delirium</p> <p>20 tremens not related to alcohol withdrawal? Or is</p> <p>21 that a symptom specifically related to alcohol</p> <p>22 withdrawal?</p> <p>23 A From the education that I've received in</p> <p>24 the past it's only alcohol.</p> <p>25 Q Okay. And there's a number of sections</p>	<p style="text-align: right;">Page 81</p> <p>1 Meaning, an alcohol level at which if it falls below</p> <p>2 that they might start into alcohol withdrawal?</p> <p>3 A Absolutely.</p> <p>4 Q And for some alcoholics, they have to</p> <p>5 continually drink to keep their blood alcohol level</p> <p>6 above that baseline or steady-state for them to</p> <p>7 appear not drunk or intoxicated?</p> <p>8 A That's true. They have to drink to stop</p> <p>9 the tremors.</p> <p>10 Q Yes. So somebody that is a long-time</p> <p>11 alcoholic if they go without alcohol for a period of</p> <p>12 time they might start shaking and appear like</p> <p>13 they're intoxicated?</p> <p>14 A They might not appear they're intoxicated?</p> <p>15 Q No. They might start shaking and appear</p> <p>16 that they are intoxicated?</p> <p>17 A Most intoxicated persons do not shake.</p> <p>18 But once -- to clarify your question. If a person</p> <p>19 is used to, a chronic alcoholic is used to a blood</p> <p>20 alcoholic content of 50 percent, .15 and then they</p> <p>21 drop down below the .1 threshold, at that point they</p> <p>22 might start with tremors. They might start getting</p> <p>23 diaphoretic. And once they get a drink to get their</p> <p>24 BAC up above that .15 their symptoms subside.</p> <p>25 Q Okay.</p>

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<p style="text-align: right;">Page 82</p> <p>1 A If that answers your question. That seems</p> <p>2 to be what you're asking.</p> <p>3 Q Thank you. That's pretty close to what</p> <p>4 I'm asking.</p> <p>5 MR. SMIT: Ron, without getting into</p> <p>6 detail, I have a little technical issue here.</p> <p>7 MR. CHAPMAN: Okay.</p> <p>8 MR. SMIT: At your leisure, if we can take</p> <p>9 5, that would be helpful.</p> <p>10 MR. CHAPMAN: We can do it right now.</p> <p>11 MS. DAMICO: Good time. We'll take a</p> <p>12 break.</p> <p>13 MR. SMIT: Thanks, guys.</p> <p>14 (After the break the following</p> <p>15 testimony resumed on the</p> <p>16 record:)</p> <p>17 BY MR. CHAPMAN:</p> <p>18 Q All right. Let me show you one last</p> <p>19 article that I have called Alcohol Withdrawal</p> <p>20 Syndrome: Benzodiazepines and Beyond.</p> <p>21 MR. CHAPMAN: We're at 169?</p> <p>22 MS. DAMICO: Yes.</p> <p>23 MR. CHAPMAN: Could you mark that as</p> <p>24 Exhibit 169. (Document proffered.)</p> <p>25</p>	<p style="text-align: right;">Page 84</p> <p>1 Q More empirical?</p> <p>2 A Yes.</p> <p>3 Q And that's fine. Now I have some</p> <p>4 documents here that I have no idea why I have them.</p> <p>5 They're quick facts about Richmond City, Virginia.</p> <p>6 Do those have anything to do with this case?</p> <p>7 A I was making a comparison between Grand</p> <p>8 Rapids, Michigan and Richmond, Virginia.</p> <p>9 Q Why would that matter?</p> <p>10 A Because we're in a local standard of care</p> <p>11 in the State of Michigan.</p> <p>12 Q But why would a census have anything to do</p> <p>13 with the standard of care in a particular locality?</p> <p>14 A I was -- just the comparison to the size</p> <p>15 of Richmond where I work to the size of Grand</p> <p>16 Rapids, Michigan where this case is.</p> <p>17 Q My question to you is, why does the census</p> <p>18 have anything to do with the standard of care with</p> <p>19 the local community?</p> <p>20 A It's what I normally review when I'm</p> <p>21 getting ready to testify in those areas.</p> <p>22 Q No, I understand that. That's fine. But</p> <p>23 what I'm asking is, why does the number of people in</p> <p>24 a community, the population of a community, the</p> <p>25 number of stores in a community, the primary source</p>
<p style="text-align: right;">Page 83</p> <p>1 (The aforementioned document</p> <p>2 marked Deposition Exhibit No.</p> <p>3 169.)</p> <p>4 THE WITNESS: (Complies.)</p> <p>5 BY MR. CHAPMAN:</p> <p>6 Q And that particular article, is that one</p> <p>7 you located using your own independent research, or</p> <p>8 is that an article that Ms. Damico provided to you,</p> <p>9 either the citation or the actual article?</p> <p>10 A It was me.</p> <p>11 Q And in that particular document there's no</p> <p>12 highlighting; correct?</p> <p>13 A There's not. Just where it came from, the</p> <p>14 journal.</p> <p>15 Q Now, in that article it appears to be</p> <p>16 mostly benzodiazepines; correct?</p> <p>17 A Correct. It's more psychiatry.</p> <p>18 Q And Mr. Jones was not detoxing from</p> <p>19 benzodiazepines; was he?</p> <p>20 A He was not.</p> <p>21 Q Is there some relationship between</p> <p>22 detoxing from benzodiazepines and alcohol? Or do</p> <p>23 they effect the method and manner of detoxing</p> <p>24 differently? Or do you know?</p> <p>25 A They're different.</p>	<p style="text-align: right;">Page 85</p> <p>1 of employment, why does that have anything to do</p> <p>2 with the standard of care?</p> <p>3 A It probably doesn't. But I'm just looking</p> <p>4 at comparison comparing that area to the area in</p> <p>5 which I live.</p> <p>6 Q Okay. So your testimony is, doesn't have</p> <p>7 anything to do with the standard of care, but you</p> <p>8 just do that as part of your preparation?</p> <p>9 A Right.</p> <p>10 MR. CHAPMAN: Okay. Do you want to mark</p> <p>11 that, Peter, so you can see the difference</p> <p>12 between Grand Rapids and Richmond, Virginia?</p> <p>13 MR. SMIT: I could put that in my travel</p> <p>14 file I guess.</p> <p>15 MR. CHAPMAN: Let's mark it as whatever</p> <p>16 the next exhibit is.</p> <p>17 MS. DAMICO: It would be 170.</p> <p>18 (The aforementioned document</p> <p>19 marked Deposition Exhibit No.</p> <p>20 170.)</p> <p>21 BY MR. CHAPMAN:</p> <p>22 Q Now, another document I'm handing</p> <p>23 (proffered) you is titled, Clinical Institute</p> <p>24 Withdrawal Assessment of Alcohol Scale, Revised,</p> <p>25 CIWA-Ar.</p>

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<p style="text-align: right;">Page 86</p> <p>1 MR. CHAPMAN: First, could you mark that</p> <p>2 Exhibit 171 and identify that as 2 pages.</p> <p>3 (The aforementioned document</p> <p>4 marked Deposition Exhibit No.</p> <p>5 171.)</p> <p>6 THE WITNESS: (Complies.)</p> <p>7 BY MR. CHAPMAN:</p> <p>8 Q Now, that is not a document from the</p> <p>9 medical chart of Corizon and Kent County; correct?</p> <p>10 A Correct.</p> <p>11 Q That is a document that reflects the CIWA</p> <p>12 scoring, though; correct?</p> <p>13 A Correct.</p> <p>14 Q This is a document that you pulled from</p> <p>15 where?</p> <p>16 A A Google search.</p> <p>17 Q Okay. Just on the internet Google search?</p> <p>18 A Correct.</p> <p>19 Q Okay. The items listed in each of the</p> <p>20 various categories, are those items the same as the</p> <p>21 items listed in the Corizon CIWA?</p> <p>22 A (No response.)</p> <p>23 Q I guess to help you, you also had this</p> <p>24 attached (document proffered.). Not to that but it</p> <p>25 was separate.</p>	<p style="text-align: right;">Page 88</p> <p>1 MR. CHAPMAN: Okay. Mark the actual sheet</p> <p>2 there the next exhibit.</p> <p>3 MS. DAMICO: So 172 I've called it CIWA-Ar</p> <p>4 Corizon record, page 12. Because that's what</p> <p>5 it says.</p> <p>6 MR. CHAPMAN: Sounds good.</p> <p>7 (The aforementioned document</p> <p>8 marked Deposition Exhibit No.</p> <p>9 172.)</p> <p>10 BY MR. CHAPMAN:</p> <p>11 Q Okay. Let's go back to Exhibit 171. So</p> <p>12 if I heard you correctly, that is a document you</p> <p>13 pulled up from Google search that reflects someone's</p> <p>14 version of a CIWA; correct?</p> <p>15 A Yes, sir.</p> <p>16 Q And all CIWA-Ars are pretty similar but</p> <p>17 carry some differences?</p> <p>18 A They do.</p> <p>19 Q Okay. Now, one of the articles that you</p> <p>20 spoke about and in your report you spoke about is</p> <p>21 the CIWA scoring isn't subjective?</p> <p>22 A It is.</p> <p>23 Q There are limited objective determinations</p> <p>24 like vital signs, diaphoresis, agitation and</p> <p>25 tremors. Those things can be observed. Everything</p>
<p style="text-align: right;">Page 87</p> <p>1 MR. CHAPMAN: What I handed him was an</p> <p>2 actual CIWA document from the record.</p> <p>3 THE WITNESS: I'm not ...</p> <p>4 BY MR. CHAPMAN:</p> <p>5 Q Isn't it true that CIWA and the categories</p> <p>6 under which they are scored, they're basically all</p> <p>7 similar, but the different CIWA charts have some</p> <p>8 variations in them?</p> <p>9 A Correct.</p> <p>10 MR. CHAPMAN: Okay. Let's mark the one to</p> <p>11 your left as -- we already marked that. Okay.</p> <p>12 Mark the one to your right --</p> <p>13 MS. DAMICO: It's already been marked.</p> <p>14 MR. CHAPMAN: But I'll mark it part of</p> <p>15 that because it was part of his record.</p> <p>16 BY MR. CHAPMAN:</p> <p>17 Q I assume that document went hand in hand</p> <p>18 with this exhibit?</p> <p>19 A Not really, no. I was going through --</p> <p>20 the way I did it is when I first started reading</p> <p>21 this, that it was alcohol withdrawal, I printed off</p> <p>22 the CIWA score and tried to go through a little bit</p> <p>23 of the records. And then once I got the video tape</p> <p>24 I could look at the video tape and try to come up</p> <p>25 with a CIWA score.</p>	<p style="text-align: right;">Page 89</p> <p>1 else is objective?</p> <p>2 A Correct.</p> <p>3 Q And if you look at -- for example, look at</p> <p>4 the category under Tremors on the 171 Document. To</p> <p>5 distinguish between 1, 2, 3, 4, 5, 6 and 7, there's</p> <p>6 variations there. Like the difference between a 2</p> <p>7 and a 3. It doesn't even tell you. That's</p> <p>8 subjective to the person scoring; correct?</p> <p>9 A It is.</p> <p>10 Q The difference between a 5 and a 6 is also</p> <p>11 subjective to the person scoring; correct?</p> <p>12 A It is.</p> <p>13 Q Even a 7. Severe, even with arms not</p> <p>14 extended; and moderate, with patient's arm extended,</p> <p>15 there's no real delineation between them other than</p> <p>16 the subjective evaluation of the score; correct?</p> <p>17 A Correct.</p> <p>18 Q When we get down to anxiety zero is no</p> <p>19 anxiety, at ease. But that's extremely subjective;</p> <p>20 correct?</p> <p>21 A Correct.</p> <p>22 Q Somebody could be very anxious, tell you</p> <p>23 they don't have anxiety and not appear to be</p> <p>24 anxious?</p> <p>25 A Yes.</p>

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<p style="text-align: right;">Page 90</p> <p>1 Q And you might score it a zero when, in</p> <p>2 fact, it might be something higher than zero;</p> <p>3 correct?</p> <p>4 A Correct.</p> <p>5 Q And the difference between 1 which is</p> <p>6 barely perceptible sweating, palms moist and beads</p> <p>7 of sweat obvious on the forehead, there's a</p> <p>8 subjectiveness between those as well or -- wait a</p> <p>9 minute -- strike that last question.</p> <p>10 When we're talking about anxiety; 1,</p> <p>11 mildly anxious or moderately anxious or guarded,</p> <p>12 those are very subjective; aren't they?</p> <p>13 A They are subjective, yes.</p> <p>14 Q And that goes on and on with all of this.</p> <p>15 It's subjective. One might score it a 3. One might</p> <p>16 score it a 5?</p> <p>17 A Correct.</p> <p>18 Q All right. So when you get down to say</p> <p>19 somebody's a 21 in scoring. It could be a 16. It</p> <p>20 could be a 25 depending on who's doing the scoring?</p> <p>21 A Yes.</p> <p>22 Q Okay. And if you have 5 people working in</p> <p>23 a situation like a jail, and they're evaluating at</p> <p>24 different times, their scores could be dramatically</p> <p>25 different; couldn't they?</p>	<p style="text-align: right;">Page 92</p> <p>1 And could you count how many pages so I know</p> <p>2 how many pages there are?</p> <p>3 THE WITNESS: (Complies.)</p> <p>4 MS. DAMICO: I count 7 pages for his</p> <p>5 notes.</p> <p>6 (The aforementioned document</p> <p>7 marked Deposition Exhibit No.</p> <p>8 173.)</p> <p>9 BY MR. CHAPMAN:</p> <p>10 Q In your report you make some comments</p> <p>11 regarding Deputy Cooper's alleged call at 8:49 to</p> <p>12 medical; correct?</p> <p>13 A Yes.</p> <p>14 Q Now, I just want to ask you a couple</p> <p>15 questions about that. Other than the testimony from</p> <p>16 Deputy Cooper and the fact that there is a record</p> <p>17 that a phone call was made to medical at that point</p> <p>18 in time there's no other evidence that that phone</p> <p>19 call was actually made; correct?</p> <p>20 A The phone call, no.</p> <p>21 Q Okay. There's no -- do you know whether</p> <p>22 she spoke to her husband who's also a deputy that</p> <p>23 was down in medical at that time?</p> <p>24 A No. I was going on her deposition</p> <p>25 testimony.</p>
<p style="text-align: right;">Page 91</p> <p>1 A They could be, yes.</p> <p>2 Q And an individual going through</p> <p>3 withdrawals, they wax and wane; don't they?</p> <p>4 A They can depending upon medications</p> <p>5 they're receiving, yes. That's the answer to your</p> <p>6 question.</p> <p>7 Q Even depending on the medication they're</p> <p>8 receiving they can still wax and wane to the extent</p> <p>9 that one time I can have an anxiety level of 1 and</p> <p>10 the next time an anxiety level of 5 and the next</p> <p>11 time an anxiety level of 1; correct?</p> <p>12 A Sure. You could.</p> <p>13 Q I could be vomiting one time and then not</p> <p>14 vomiting for 2 times and then vomiting again;</p> <p>15 correct?</p> <p>16 A Correct.</p> <p>17 Q And those would be scored differently;</p> <p>18 correct?</p> <p>19 A They would.</p> <p>20 MR. CHAPMAN: Okay. Now, I think my last</p> <p>21 thing before I hand you off would be 173?</p> <p>22 MS. DAMICO: Yes.</p> <p>23 MR. CHAPMAN: Look at your handwritten</p> <p>24 notes to the left of you. Could you mark those</p> <p>25 as Exhibit 173 on the bottom right-hand corner.</p>	<p style="text-align: right;">Page 93</p> <p>1 Q Do you know if she spoke to any other of</p> <p>2 the 8 or 9 deputies that were in and about medical</p> <p>3 at that time?</p> <p>4 A She said that she spoke to a female in</p> <p>5 medical so I'm not sure.</p> <p>6 Q I understand that. But I'm asking you do</p> <p>7 you know if you spoke to any of those 8 or 9</p> <p>8 deputies that were there?</p> <p>9 A I have no idea.</p> <p>10 Q Do you know if she did she make a record</p> <p>11 of any person she spoke to?</p> <p>12 A She did not.</p> <p>13 Q Did she make a record of exactly what she</p> <p>14 told this person and what this person might have</p> <p>15 said?</p> <p>16 A No record.</p> <p>17 Q Did she send written notification to</p> <p>18 medical that someone was, Mr. Jones in particular,</p> <p>19 was going through withdrawal, following up on the</p> <p>20 phone call that allegedly was made on 4/24 at 8:49</p> <p>21 p.m.</p> <p>22 A Correct. And just after 10 there was</p> <p>23 another that was placed by --</p> <p>24 Q I'm talking about by Ms. Cooper, Deputy</p> <p>25 Cooper?</p>

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<p style="text-align: right;">Page 94</p> <p>1 A Correct. At 10:13.</p> <p>2 Q She didn't make it. Did she make the</p> <p>3 alert?</p> <p>4 A Yes.</p> <p>5 Q Okay. Now, an alert, do you have any idea</p> <p>6 of how an alert -- well, first let me ask you this.</p> <p>7 Are you aware of the system used by Kent County, the</p> <p>8 alert, the medical record system?</p> <p>9 A I know a little bit of it, yes.</p> <p>10 Q Okay. Alerts that are entered, do they in</p> <p>11 fact alert medical to anything? Do they show up on</p> <p>12 the screen?</p> <p>13 A They do.</p> <p>14 Q They do? How do you know that?</p> <p>15 A My inquiry about the medical record</p> <p>16 system.</p> <p>17 Q Can you point to anybody's deposition that</p> <p>18 said that that's what happened?</p> <p>19 A No.</p> <p>20 Q Were you ever given the opportunity to</p> <p>21 read the deposition of Lieutenant Kelman?</p> <p>22 A Yes. And her report.</p> <p>23 Q Did Ms. Kelman testify that there is no</p> <p>24 notification screen that shows up in medical?</p> <p>25 MR. SMIT: Object as to form.</p>	<p style="text-align: right;">Page 96</p> <p>1 withdrawals. Or that Mr. Jones was going through</p> <p>2 withdrawals.</p> <p>3 Q Comes up where and when?</p> <p>4 A On their front screen on their computer.</p> <p>5 Q Well, Lieutenant Kelman says there's not a</p> <p>6 notification screen.</p> <p>7 MR. SMIT: Form.</p> <p>8 MS. DAMICO: Form.</p> <p>9 BY MR. CHAPMAN:</p> <p>10 Q So why do you believe there's a</p> <p>11 notification screen where it comes up and says,</p> <p>12 Alert. Somebody going through withdrawals?</p> <p>13 MS. DAMICO: Let me object. He did not --</p> <p>14 that is not what he said.</p> <p>15 MR. CHAPMAN: Just form or foundation.</p> <p>16 BY MR. CHAPMAN:</p> <p>17 Q You can testify.</p> <p>18 A It was my understanding of the -- I'm not</p> <p>19 sure where I read it -- that said the alert would be</p> <p>20 on the screen and it would be seen or the ability to</p> <p>21 be seen by the nursing staff.</p> <p>22 Q Can you explain that more?</p> <p>23 MS. DAMICO: He called it a banner. He</p> <p>24 already testified as to what it was.</p> <p>25 MR. CHAPMAN: Just form and foundation. I</p>
<p style="text-align: right;">Page 95</p> <p>1 MS. DAMICO: And I join.</p> <p>2 THE WITNESS: I don't remember that. I</p> <p>3 remember it being in the banner that would have</p> <p>4 been available to the nursing staff.</p> <p>5 BY MR. CHAPMAN:</p> <p>6 Q Well, page 121, line 22, Lieutenant Kelman</p> <p>7 says, There is no notification screen. The screen</p> <p>8 doesn't start flashing. And there's not an email to</p> <p>9 alert medical.</p> <p>10 Did you read that?</p> <p>11 A I'm sure I did.</p> <p>12 Q So with that information why are you of</p> <p>13 the belief that putting an alert automatically</p> <p>14 alerts medical when Lieutenant Kelman says it</p> <p>15 doesn't?</p> <p>16 MS. DAMICO: I'm going to object to form</p> <p>17 and foundation.</p> <p>18 MR. CHAPMAN: You can object to form and</p> <p>19 foundation. That's it.</p> <p>20 MR. SMIT: Object to form.</p> <p>21 BY MR. CHAPMAN:</p> <p>22 Q Go ahead.</p> <p>23 A Well, it's my understanding that it</p> <p>24 doesn't flash or beep or whistle or anything like</p> <p>25 that. It just comes up that he was going through</p>	<p style="text-align: right;">Page 97</p> <p>1 have to --</p> <p>2 MS. DAMICO: He gave you the answer. He</p> <p>3 gave you the answer. If you want to follow up</p> <p>4 on that, that's fine.</p> <p>5 MR. CHAPMAN: You know what you can do and</p> <p>6 what you can't do.</p> <p>7 MS. DAMICO: You can't badger my witness</p> <p>8 when he's given you the answer.</p> <p>9 MR. CHAPMAN: I'm not badgering the</p> <p>10 witness.</p> <p>11 BY MR. CHAPMAN:</p> <p>12 Q Is it your testimony that Lieutenant</p> <p>13 Kelman supports your understanding that this banner</p> <p>14 shows up so that everybody in medical can see it?</p> <p>15 A I'm sorry. Can you ask one more time.</p> <p>16 Q Is it your belief that Lieutenant Kelman</p> <p>17 supports your position that this banner shows up so</p> <p>18 that everybody in medical can see it?</p> <p>19 A I'm not sure. Lieutenant Kelman supports</p> <p>20 my opinion.</p> <p>21 Q This banner that shows up, does it only</p> <p>22 show up if you're looking at Mr. Jones' record? Or</p> <p>23 does it just appear no matter what record you're</p> <p>24 looking at?</p> <p>25 A It looked like when they get the</p>

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<p style="text-align: right;">Page 98</p> <p>1 withdrawal alerts. And that's where they printed</p> <p>2 their withdrawal checks from. So whether they did</p> <p>3 it at the beginning or the end or the middle of</p> <p>4 their shift, of the nursing shift, that I wasn't</p> <p>5 sure. But it was my understanding once that went</p> <p>6 into the computer it would be available for the RN</p> <p>7 to see that. And therefore, the RN would be able to</p> <p>8 print off a withdrawal checklist from those alerts</p> <p>9 that are placed in the computer.</p> <p>10 Q Where did you get that idea from?</p> <p>11 A I don't remember where I got that idea</p> <p>12 from.</p> <p>13 Q Did you read Nurse Heather Tunnell's</p> <p>14 T-U-N-N-E-L-L, testimony?</p> <p>15 A I'm sure I did. I'll say yes.</p> <p>16 Q Well, then you read her testimony at page</p> <p>17 36 where she said, "There is no list of control</p> <p>18 checks generated for alerts." Did you read that?</p> <p>19 A No, I did not.</p> <p>20 Q Well, let me just ask you this. You can</p> <p>21 look it up if you want. Assuming she said that,</p> <p>22 would that go against what your opinion is?</p> <p>23 A My opinion about there being a banner or</p> <p>24 my opinion about Deputy Cooper calling them and</p> <p>25 telling them that Mr. Jones is starting to go</p>	<p style="text-align: right;">Page 100</p> <p>1 correct?</p> <p>2 A I'll say correct. If they're</p> <p>3 uncooperative with the exam it would be subjective.</p> <p>4 Q And you would agree looking at some video</p> <p>5 which doesn't accurately show Mr. Jones when he was</p> <p>6 up on the floor is not conducive to scoring a CIWA?</p> <p>7 MS. DAMICO: Object to form and</p> <p>8 foundation.</p> <p>9 BY MR. CHAPMAN:</p> <p>10 Q Do you agree with that?</p> <p>11 A Can you ask that one more time?</p> <p>12 Q Sure. Your Exhibit 171 is a CIWA score</p> <p>13 sheet that you found through Google; correct?</p> <p>14 A Correct.</p> <p>15 Q And you attempted to score some sections</p> <p>16 on there based on your observations of the video;</p> <p>17 correct?</p> <p>18 A Correct.</p> <p>19 Q In observing these things from video</p> <p>20 you're unable to ask questions; correct?</p> <p>21 A Correct.</p> <p>22 Q And watching something on a video is not</p> <p>23 the same as being there in real time observing</p> <p>24 somebody. Do you agree?</p> <p>25 A Correct.</p>
<p style="text-align: right;">Page 99</p> <p>1 through withdrawals?</p> <p>2 Q Neither of those. You said when alerts</p> <p>3 are entered that that generates a CIWA checklist or</p> <p>4 something that would start somebody on withdrawals.</p> <p>5 And Nurse Tunnell says that's not true. That's not</p> <p>6 how withdrawal is generated, and that's not what</p> <p>7 starts a withdrawal check. If she said that, do you</p> <p>8 agree that's different from what your opinion is?</p> <p>9 A That's different, yes.</p> <p>10 Q Do you want to look it up, or do you want</p> <p>11 to move on? It's up to you.</p> <p>12 A You can move on.</p> <p>13 Q Okay. Let's talk a little bit about CIWA.</p> <p>14 Do you want to read? Or can I have</p> <p>15 your attention?</p> <p>16 A You can go ahead.</p> <p>17 Q Okay. You can close your computer unless</p> <p>18 you need to look at it for some reason.</p> <p>19 In your report, page 3, you said,</p> <p>20 "Conducting CIWA evaluations consists of 2 parts:</p> <p>21 Ask and observe." Do you agree with that?</p> <p>22 A Yes.</p> <p>23 Q And if the patient is not cooperating or</p> <p>24 not answering questions the nurse's CIWA assessment</p> <p>25 would rely exclusively on his or her observations;</p>	<p style="text-align: right;">Page 101</p> <p>1 Q Okay. Particularly, when you're trying to</p> <p>2 make distinctions between some of the scoring</p> <p>3 between a 5 and a 6 or a 3 and a 4; correct?</p> <p>4 A Correct.</p> <p>5 Q I'm sweating. From a video you can't</p> <p>6 really see if someone has some paroxysmal sweating</p> <p>7 or if they've got beads of sweat on their forehead</p> <p>8 or if their hands are clammy and sweaty. You can't</p> <p>9 see that over video; can you?</p> <p>10 A It's very difficult.</p> <p>11 Q Okay. In fact, if we look at Exhibit 172</p> <p>12 on the left-hand side there's a number of questions</p> <p>13 that you asked for different categories. And</p> <p>14 there's a lot of empty scoring where it's up to the</p> <p>15 nurse to determine what level based on their close</p> <p>16 observation; correct?</p> <p>17 A Correct.</p> <p>18 Q It's hard to see those variances or those</p> <p>19 nuances over video; correct?</p> <p>20 A It is.</p> <p>21 Q Okay. And you agree that the video you</p> <p>22 watched doesn't have any sound; correct?</p> <p>23 A That's correct.</p> <p>24 Q Okay. Do you agree in conducting a CIWA,</p> <p>25 if the patient is not answering questions the CIWA</p>

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<p style="text-align: right;">Page 102</p> <p>1 assessment would take less time?</p> <p>2 A It might take a couple of seconds less, I</p> <p>3 mean, if they're not going to answer orientation</p> <p>4 questions. Ours, we do simple math with our CIWA</p> <p>5 scoring so it will take a couple seconds less.</p> <p>6 Q Well, if you're talking to a patient and</p> <p>7 you're asking them how they feel and if they're</p> <p>8 anxious they don't answer in one word -- well, they</p> <p>9 could say nothing, or they could answer in one or 2</p> <p>10 words. Or they could talk to you for a minute and</p> <p>11 say well, this is going on, that's going on, et</p> <p>12 cetera; right?</p> <p>13 A Yes.</p> <p>14 Q If they talk to you that could take a</p> <p>15 little more than a couple seconds; right?</p> <p>16 A Yes.</p> <p>17 Q Okay. If they don't talk to you and they</p> <p>18 either respond by nodding their head or with a</p> <p>19 one-word answer, that would take less time?</p> <p>20 A If they did exactly that, sure.</p> <p>21 Q Right. And you've done CIWA assessments</p> <p>22 before; right?</p> <p>23 A Correct.</p> <p>24 Q When you're doing those -- I'm looking at</p> <p>25 Exhibit 172. When you're assessing tremor,</p>	<p style="text-align: right;">Page 104</p> <p>1 Q Well, I'm kind of interested about that.</p> <p>2 Because you said if the person doesn't respond to</p> <p>3 you that would cut off a few seconds. Now you say</p> <p>4 it would take a few minutes to talk to the inmate</p> <p>5 about vomiting. Which is it?</p> <p>6 A No. But you said if they won't answer at</p> <p>7 all then obviously that would take some time.</p> <p>8 Q But you said a few seconds. Now you say</p> <p>9 just vomiting alone it could take a few minutes in</p> <p>10 talking to the patient.</p> <p>11 A Well, it's nausea, vomiting. It might</p> <p>12 take some time. It varies from person to person.</p> <p>13 Q Well, I understand. But if someone isn't</p> <p>14 cooperative and doesn't talk to you it doesn't trim</p> <p>15 off a few seconds. It could trim off significant</p> <p>16 time doing a CIWA if they're not talking to you or</p> <p>17 not responding; correct?</p> <p>18 A Sure. If they're standing on the floor</p> <p>19 rocking back and forth with their back to you and</p> <p>20 refuse to even acknowledge you being there. You</p> <p>21 know, you try your best to be their friend and get</p> <p>22 information from them to treat them the best you</p> <p>23 can. But if they're not going to respond to you</p> <p>24 whatsoever then you're left to just be objective.</p> <p>25 Q Or they could just be standing there</p>
<p style="text-align: right;">Page 103</p> <p>1 paroxysmal sweats, anxiety, you can do all of those</p> <p>2 at one time by looking at the patient; right?</p> <p>3 A Sure. But you're following a sheet or on</p> <p>4 a computer screen so you're going down to make sure</p> <p>5 that you do assess all parts and all aspects of the</p> <p>6 CIWA.</p> <p>7 Q I understand. But you have to go through</p> <p>8 these looks like 10 different categories that you</p> <p>9 make an assessment on; correct?</p> <p>10 A Correct.</p> <p>11 Q Is that how many are on this sheet?</p> <p>12 A There are.</p> <p>13 Q Okay. So, I mean, the first one: Nausea</p> <p>14 and vomiting, you would ask the patient or the</p> <p>15 inmate if they're nauseous or vomiting; right?</p> <p>16 A Correct.</p> <p>17 Q If they don't tell you they vomited 10</p> <p>18 minutes ago or 4 hours ago then you would write no;</p> <p>19 correct? Unless you see it?</p> <p>20 A Exactly. Or unless somebody tells you</p> <p>21 that they've been throwing up. So you can utilize</p> <p>22 that as well. So usually you have to sit there and</p> <p>23 talk to the patient first a few minutes. Some</p> <p>24 people are very distrustful of you so that takes a</p> <p>25 few minutes sometimes to get through.</p>	<p style="text-align: right;">Page 105</p> <p>1 looking at you, standing, and you ask them a</p> <p>2 question and they just ignore you?</p> <p>3 A Sure. So then with that then you try to</p> <p>4 befriend them a little bit.</p> <p>5 Q Sure.</p> <p>6 A These people have never seen you before.</p> <p>7 Sometimes they're distrustful. And you sit there</p> <p>8 and talk to them. Hey, where do you live, and</p> <p>9 things like that and try to build a rapport with the</p> <p>10 patient. You don't just come in, hey, Mr. Jones,</p> <p>11 and him not, okay, next person, and then move on</p> <p>12 down the line. That's not what you're supposed to</p> <p>13 do.</p> <p>14 Q Have you ever assessed a person in a jail?</p> <p>15 A In an actual jail?</p> <p>16 Q In an actual jail?</p> <p>17 A No.</p> <p>18 Q Do you believe inmates in jail are</p> <p>19 trusting of guards and medical? Just by nature</p> <p>20 they're free and trusting? Or do you believe by</p> <p>21 being locked up there's distrust just built in?</p> <p>22 A I mean, it would be speculation. But I</p> <p>23 deal with inmates frequently, and they are -- those</p> <p>24 are usually fairly trusting. But if you'd ask me</p> <p>25 about a general jail. Our jail population is a</p>

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<p style="text-align: right;">Page 106</p> <p>1 little bit different, and they seem to be more</p> <p>2 distrustful.</p> <p>3 Q Well, I'm a little confused. Because</p> <p>4 about 3 hours ago you said there's a prison ward</p> <p>5 from the [Vermont] prison. There's no jail people.</p> <p>6 They're prison people.</p> <p>7 A Virginia. Yes.</p> <p>8 Q So you don't deal with jail people; do</p> <p>9 you?</p> <p>10 A I do. Richmond City Jail in the emergency</p> <p>11 room.</p> <p>12 Q Okay. So you have some people coming from</p> <p>13 the jail to the emergency room?</p> <p>14 A Sure.</p> <p>15 Q Okay.</p> <p>16 A If they felt need to be transferred to the</p> <p>17 hospital for some reason we evaluate them.</p> <p>18 Q But those folks aren't from the jail.</p> <p>19 They're coming now to medical outside the jail</p> <p>20 telling nurses or doctors, whatever it is they want</p> <p>21 to tell them; correct?</p> <p>22 A Correct.</p> <p>23 Q Okay. Do you have any evidence, not your</p> <p>24 opinion or your belief, any evidence that any of the</p> <p>25 nurses did not, for example nausea and vomiting, try</p>	<p style="text-align: right;">Page 108</p> <p>1 doesn't talk to you, what's the shortest period of</p> <p>2 time it takes to do it? And don't speculate if you</p> <p>3 don't know.</p> <p>4 A Yes, it would be speculation.</p> <p>5 Q Do you agree that when a health care</p> <p>6 professional in the jail setting is trying to assist</p> <p>7 the patient it's important for the patient to be</p> <p>8 cooperative?</p> <p>9 A That makes their job a little bit easier,</p> <p>10 yes.</p> <p>11 Q And without a cooperative patient</p> <p>12 answering questions truthfully to you it's very hard</p> <p>13 to do an assessment, at least a subjective</p> <p>14 assessment, because they're not telling you</p> <p>15 everything?</p> <p>16 A It makes it more difficult, yes.</p> <p>17 Q As part of -- do you think a patient has a</p> <p>18 duty to provide an accurate history in answers to</p> <p>19 questions provided or posed by health care</p> <p>20 providers?</p> <p>21 MS. DAMICO: Objection. Asked and</p> <p>22 answered.</p> <p>23 THE WITNESS: If they understand the</p> <p>24 questions I would hope that my patients answer</p> <p>25 accurately.</p>
<p style="text-align: right;">Page 107</p> <p>1 to elicit information from him?</p> <p>2 A No. I mean, it would be --</p> <p>3 Q The answer is yes or no, if you could.</p> <p>4 A Yes.</p> <p>5 Q You do? What?</p> <p>6 A The video tape.</p> <p>7 Q In the video tape do you see whether</p> <p>8 they're talking or not talking?</p> <p>9 A I see LPN Card come and glance in the cell</p> <p>10 and keep walking. So if he's talking, he's talking</p> <p>11 as he's walking away. So that's one bit of</p> <p>12 evidence.</p> <p>13 Q Okay. What about Mollo? Is that the same</p> <p>14 thing? Did he do an assessment?</p> <p>15 MS. DAMICO: Object to form and</p> <p>16 foundation.</p> <p>17 BY MR. CHAPMAN:</p> <p>18 Q You can answer.</p> <p>19 A I didn't see him at 4:00 in the morning.</p> <p>20 Q If somebody doesn't talk to you how long</p> <p>21 does it take to do an assessment, the shortest</p> <p>22 period of time to do an assessment?</p> <p>23 A A CIWA assessment or a physical</p> <p>24 assessment?</p> <p>25 Q No. A CIWA assessment if an inmate</p>	<p style="text-align: right;">Page 109</p> <p>1 BY MR. CHAPMAN:</p> <p>2 Q But do you believe there's a burden on the</p> <p>3 patient to answer questions accurately? Not</p> <p>4 something you would hope.</p> <p>5 A There is. But there are also variables</p> <p>6 that you need to factor in.</p> <p>7 Q You know, I think we spoke about this.</p> <p>8 But providing an accurate history has a direct</p> <p>9 affect on the treatment plan and orders that might</p> <p>10 be provided by the health care provider?</p> <p>11 A True.</p> <p>12 Q Can there be a reasonable expectation by a</p> <p>13 health care provider or a nurse that a patient will</p> <p>14 follow instructions?</p> <p>15 A I will say there's, both, a reasonable</p> <p>16 expectation as well as a hope. That patients will</p> <p>17 follow the instructions that you give them.</p> <p>18 Q We all know that some patients don't. You</p> <p>19 have a diabetic and you tell them to monitor their</p> <p>20 blood sugar and you find out they're eating sugar</p> <p>21 maybe. But you would hope that they follow, but</p> <p>22 they don't always?</p> <p>23 A Sure.</p> <p>24 Q You might tell a patient it would be good</p> <p>25 if you lost 50 pounds. That might help with your</p>

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<p style="text-align: right;">Page 110</p> <p>1 diabetes. And they gain 20 pounds.</p> <p>2 A Right.</p> <p>3 Q Really all a health care provider can</p> <p>4 really do is advise the patient on what to do and</p> <p>5 hope that they do it; right?</p> <p>6 A Sure, yes.</p> <p>7 Q And then continue to monitor them and</p> <p>8 continue to help them the best they can?</p> <p>9 A Correct.</p> <p>10 Q When Mr. Jones came into the facility he</p> <p>11 told the intake person that basically he only drank</p> <p>12 occasionally; correct?</p> <p>13 A Correct.</p> <p>14 Q Did he tell the intake nurse that just 96</p> <p>15 minutes earlier he had a PBT test of .159?</p> <p>16 MS. DAMICO: I'm going to object. It's</p> <p>17 hearsay.</p> <p>18 THE WITNESS: That's not documented.</p> <p>19 BY MR. CHAPMAN:</p> <p>20 Q Were you aware that when he was in court</p> <p>21 the deputy took a PBT test 96 minutes before he</p> <p>22 arrived at the jail, and that was 1.59?</p> <p>23 A I am, yes.</p> <p>24 Q Are you aware at the jail, in fact, the</p> <p>25 judge commented that he didn't appear to exhibit</p>	<p style="text-align: right;">Page 112</p> <p>1 correction, .15?</p> <p>2 MS. DAMICO: Object to foundation.</p> <p>3 BY MR. CHAPMAN:</p> <p>4 Q Do you agree with that?</p> <p>5 A Yes.</p> <p>6 Q Were you aware that the statutory level of</p> <p>7 blood alcohol to be intoxicated in Michigan is .08?</p> <p>8 A Correct.</p> <p>9 Q Okay. Do you agree that .159 is about 2</p> <p>10 times the limit in Michigan?</p> <p>11 A Yes.</p> <p>12 Q Okay. Do you agree that the treatment of</p> <p>13 Mr. Jones would have been different if he had told</p> <p>14 the intake nurse that he was drinking 6 to 7 drinks</p> <p>15 a day for at least the last 10 years?</p> <p>16 A I don't know that he didn't tell her that.</p> <p>17 Q It's not documented that he did; is it?</p> <p>18 A No.</p> <p>19 Q And we don't have his testimony whether he</p> <p>20 did or he didn't; right?</p> <p>21 A Correct.</p> <p>22 Q Do you generally have to rely on medical</p> <p>23 records when you give your opinion?</p> <p>24 A Correct.</p> <p>25 Q In fact, you have no objective basis to</p>
<p style="text-align: right;">Page 111</p> <p>1 effects from alcohol?</p> <p>2 A Yes.</p> <p>3 Q Do you agree that Mr. Wade had what they</p> <p>4 call functional tolerance with respect to blood</p> <p>5 alcohol level?</p> <p>6 A Yes.</p> <p>7 Q Did he appear -- let me ask this. If he</p> <p>8 appeared to the judge that he didn't have outward</p> <p>9 effects of alcohol at .159 would you assume that</p> <p>10 somewhere close to that would have been his</p> <p>11 baseline?</p> <p>12 A It would appear to be that, yes.</p> <p>13 Q Do you know per hour what percentage for</p> <p>14 the blood level that alcohol would decrease if</p> <p>15 you're not consuming alcohol? Does that make sense</p> <p>16 what I just said?</p> <p>17 A It does. And I will say I'm not sure. I</p> <p>18 don't know how fast your blood alcohol content</p> <p>19 diminishes over the course of one hour, 2 hours or 4</p> <p>20 hours.</p> <p>21 Q Do you agree with the fact that when he</p> <p>22 appeared to medical that he was intoxicated?</p> <p>23 A He should have been, yes.</p> <p>24 Q He should have been because his blood</p> <p>25 alcohol would have been somewhere around [1.5] --</p>	<p style="text-align: right;">Page 113</p> <p>1 deny that the medical record from intake is, in</p> <p>2 fact, what was told to her by Mr. Jones?</p> <p>3 A True.</p> <p>4 Q And you can't as an expert just change the</p> <p>5 facts as you feel like it in order to arrive at a</p> <p>6 different opinion; can you?</p> <p>7 A No.</p> <p>8 Q So is it true that in order to give an</p> <p>9 opinion you have to rely on the intake treating</p> <p>10 record?</p> <p>11 A Correct.</p> <p>12 Q Okay.</p> <p>13 A Plus discovery depositions.</p> <p>14 Q Okay. Is there some discovery deposition</p> <p>15 that changes the document at intake?</p> <p>16 A The documented intake, no.</p> <p>17 Q Okay.</p> <p>18 A I mean, Nurse Byrne had stated that if --</p> <p>19 that he wouldn't give her the information on that</p> <p>20 aspect. And if it was true then she would have</p> <p>21 wrote "refused" on the paperwork. And I didn't see</p> <p>22 that documented.</p> <p>23 Q The document says "denied"; right? What</p> <p>24 does it say?</p> <p>25 A "Refused" on his last drink.</p>

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<p style="text-align: right;">Page 114</p> <p>1 Q Yes. So isn't it incumbent upon him to</p> <p>2 tell her when his last drink would have been in his</p> <p>3 history of drinking when she asked him?</p> <p>4 A If he was asked.</p> <p>5 Q Well, there's questions here that identify</p> <p>6 that he was asked. Or are you trying to say that</p> <p>7 there's evidence that suggests he was not asked</p> <p>8 those questions?</p> <p>9 A It was not asked -- I didn't see</p> <p>10 documented that he was asked when his last drink</p> <p>11 was. And Nurse Byrne in her deposition stated that</p> <p>12 he refused to answer that question. I believe</p> <p>13 that's what it was. Then she would have written</p> <p>14 refused. But there was not documented --</p> <p>15 Q Didn't he testify that his drinking</p> <p>16 history was he occasionally drank?</p> <p>17 MS. DAMICO: He did not testify so</p> <p>18 objection.</p> <p>19 MR. CHAPMAN: You can't say whether</p> <p>20 someone testified or didn't --</p> <p>21 MS. DAMICO: You said, didn't he testify.</p> <p>22 MR. CHAPMAN: Then state form or</p> <p>23 foundation.</p> <p>24 MS. DAMICO: He didn't testify.</p> <p>25 MR. CHAPMAN: The witness can say he</p>	<p style="text-align: right;">Page 116</p> <p>1 occasionally; correct?</p> <p>2 A Correct.</p> <p>3 Q Mr. Jones on occasion refused to take his</p> <p>4 medication; correct?</p> <p>5 A While he was in the jail?</p> <p>6 Q Yes.</p> <p>7 A Correct.</p> <p>8 Q And the record indicates that he was</p> <p>9 advised of the consequences of not taking his</p> <p>10 medication?</p> <p>11 A That's what was stated. But, you know,</p> <p>12 with that I question how much he understood.</p> <p>13 Q I'm not asking you that question. I'm</p> <p>14 asking you if the record says he was advised?</p> <p>15 A Correct.</p> <p>16 Q And with respect to this issue of how much</p> <p>17 he understood would be pure speculation on your part</p> <p>18 to say how much he understood or didn't understand;</p> <p>19 correct?</p> <p>20 A Correct.</p> <p>21 Q Okay. The questions that I'm about to ask</p> <p>22 you, if you don't have actual knowledge I don't want</p> <p>23 you to speculate; okay? I don't want you to say</p> <p>24 what you believe. I want you to tell me what you</p> <p>25 know from your research or training or whatever it</p>
<p style="text-align: right;">Page 115</p> <p>1 doesn't understand the question I asked.</p> <p>2 MS. DAMICO: Okay. Sorry.</p> <p>3 BY MR. CHAPMAN:</p> <p>4 Q Doesn't the record say that he indicated</p> <p>5 he only drank 2 drinks?</p> <p>6 A That's true.</p> <p>7 Q Okay. That's different than someone who</p> <p>8 has a blood alcohol level of .159 and drank before</p> <p>9 he went into the courthouse; correct?</p> <p>10 A That would show that he drank right before</p> <p>11 he went into the courthouse; correct.</p> <p>12 Q He didn't say that; did he?</p> <p>13 A I don't believe that question was asked is</p> <p>14 what I was saying.</p> <p>15 Q The question posed to you is that he said</p> <p>16 he drinks occasionally; correct?</p> <p>17 A Correct.</p> <p>18 Q Drinks occasionally is not what his</p> <p>19 history is; correct?</p> <p>20 A Correct.</p> <p>21 Q He is a long-time chronic alcoholic that</p> <p>22 drinks significant amounts. 6 to 7 drinks a day;</p> <p>23 correct?</p> <p>24 A Yes.</p> <p>25 Q He did not say that when he said I drink</p>	<p style="text-align: right;">Page 117</p> <p>1 might be; okay?</p> <p>2 A Okay.</p> <p>3 Q Is that agreed?</p> <p>4 A Yes.</p> <p>5 Q Okay. Consuming large amounts of alcohol</p> <p>6 over a period of years causes someone to develop</p> <p>7 functional tolerance; correct?</p> <p>8 A That's correct.</p> <p>9 Q Consuming large amounts of alcohol over a</p> <p>10 period of years causes someone to develop a high</p> <p>11 base level, blood alcohol level. Meaning if it</p> <p>12 falls below the base level someone could go into</p> <p>13 withdrawals?</p> <p>14 A Right.</p> <p>15 Q With respect to Mr. Jones, the only</p> <p>16 evidence we have to his base level is that .159 the</p> <p>17 judge said he didn't appear to be intoxicated;</p> <p>18 correct?</p> <p>19 A True.</p> <p>20 Q That would suggest that his base level</p> <p>21 would be either at .159 or something below that?</p> <p>22 A True.</p> <p>23 Q On autopsy the medical examiner identified</p> <p>24 damage to his liver that would cause functional</p> <p>25 impairment of his liver; correct?</p>

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<p style="text-align: right;">Page 118</p> <p>1 A Acute hepatitis, yes.</p> <p>2 Q Listen to my question. The medical</p> <p>3 examiner identified damage to his liver that would</p> <p>4 cause functional impairment of his liver?</p> <p>5 MS. DAMICO: Objection. Foundation.</p> <p>6 THE WITNESS: It would be a functional</p> <p>7 impairment, sure.</p> <p>8 BY MR. CHAPMAN:</p> <p>9 Q Okay. On autopsy the medical examiner</p> <p>10 identified that he had pancreatitis causing</p> <p>11 functional impairment; correct?</p> <p>12 MS. DAMICO: Object to foundation.</p> <p>13 THE WITNESS: I'm not sure of functional</p> <p>14 impairment, but he did find acute pancreatitis.</p> <p>15 BY MR. CHAPMAN:</p> <p>16 Q Well, acute pancreatitis would impair the</p> <p>17 function of the pancreas; right?</p> <p>18 A Depends upon degree but yes it could.</p> <p>19 Q Okay. But again, like I said before, I</p> <p>20 don't want you speculating. If these are questions</p> <p>21 that should be asked the medical providers then just</p> <p>22 say that's outside my pay grade, as you said before,</p> <p>23 or outside my expertise. So I don't want you</p> <p>24 speculating as to what you may or may not know;</p> <p>25 okay?</p>	<p style="text-align: right;">Page 120</p> <p>1 Q Okay. On autopsy it was found that</p> <p>2 Mr. Jones had damage to his hippocampus. Do you</p> <p>3 know what that controls?</p> <p>4 MS. DAMICO: First of all, he said he's</p> <p>5 not testify as to causation.</p> <p>6 MR. CHAPMAN: I'm asking the question.</p> <p>7 MS. DAMICO: He already testified. He's</p> <p>8 said he's not testifying to that.</p> <p>9 MR. CHAPMAN: Then he can say he doesn't</p> <p>10 have an opinion on this, or this isn't what I'm</p> <p>11 testifying to, or I'll rely on the medical</p> <p>12 provider.</p> <p>13 THE WITNESS: I'll rely on the medical</p> <p>14 provider.</p> <p>15 MR. CHAPMAN: Okay.</p> <p>16 MS. DAMICO: You're asking opinions that</p> <p>17 are not in his report.</p> <p>18 BY MR. CHAPMAN:</p> <p>19 Q Just to be clear as to the cause of death,</p> <p>20 we have testimony by Dr. Fintel, plaintiff's expert.</p> <p>21 You're not testifying to that, with respect to that;</p> <p>22 correct?</p> <p>23 A Correct.</p> <p>24 Q Okay. In your research did you find that</p> <p>25 alcohol impairs the sensory nervous system?</p>
<p style="text-align: right;">Page 119</p> <p>1 A Okay.</p> <p>2 Q So on that question with respect to would</p> <p>3 acute pancreatitis cause dysfunction or impairment</p> <p>4 of the pancreas, is that something you feel you can</p> <p>5 answer, or do you want to punt on that to a health</p> <p>6 care provider?</p> <p>7 A I would say I'm fine punting to a</p> <p>8 physician or endocrinologist. But with that, I've</p> <p>9 also seen patients with acute pancreatitis do very</p> <p>10 well with their pain and eat and be merry and happy</p> <p>11 in the hospital. And I've seen some that were food</p> <p>12 restricted because of their pancreatitis. So</p> <p>13 pancreatitis can come in varying degrees.</p> <p>14 Q But regardless of the degree, acute</p> <p>15 pancreatitis causes impairment of the pancreas.</p> <p>16 Just the inflammation and the problems alone the</p> <p>17 pancreas reacts differently than it would if it</p> <p>18 didn't have acute pancreatitis; correct?</p> <p>19 A It could. I mean, I'm fine referring to</p> <p>20 an endocrinologies.</p> <p>21 Q Let me ask you this. Did you read the</p> <p>22 deposition of Dr. Fintel? It was just taken a</p> <p>23 couple weeks ago. If Dr. Fintel was asked these</p> <p>24 questions and responded, would you defer to him?</p> <p>25 A Sure.</p>	<p style="text-align: right;">Page 121</p> <p>1 A It does.</p> <p>2 Q In your research did you find that the</p> <p>3 withdrawal from alcohol causes the central nervous</p> <p>4 system to overreact?</p> <p>5 A It does.</p> <p>6 Q In your research did you find that as the</p> <p>7 central nervous system overreacts it could cause</p> <p>8 DTs, delirium tremens?</p> <p>9 A Yes.</p> <p>10 Q Did you find in your research that</p> <p>11 delirium tremens could cause death?</p> <p>12 A Yes.</p> <p>13 Q Do you agree that hallucinations impair</p> <p>14 one's ability to function?</p> <p>15 A Yes.</p> <p>16 Q Do you believe that mental confusion</p> <p>17 impairs one's ability to function?</p> <p>18 A Yes.</p> <p>19 Q In your report on page 12 you indicate on</p> <p>20 4/26/18 Mr. Jones was hallucinating and confused.</p> <p>21 Would you agree with that? You don't have to refer</p> <p>22 to a specific date. Do you agree that Mr. Jones was</p> <p>23 hallucinating and confused?</p> <p>24 A Yes.</p> <p>25 Q Go ahead. Page 12. Do you see on 4/26/18</p>

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<p style="text-align: right;">Page 122</p> <p>1 that he was hallucinating and confused?</p> <p>2 A (Reviews document.) I don't see it but</p> <p>3 I'm sure he was.</p> <p>4 Q I refer you to page 5 at the bottom. This</p> <p>5 is a different day. You say Jones was confused and</p> <p>6 having both auditory and visual hallucinations?</p> <p>7 MS. DAMICO: What paragraph?</p> <p>8 MR. CHAPMAN: Bottom of page 5, last</p> <p>9 sentence.</p> <p>10 BY MR. CHAPMAN:</p> <p>11 Q Do you see that?</p> <p>12 A Yes, sir.</p> <p>13 Q So you would agree that off and on from</p> <p>14 4/26 until his death there were periods where he</p> <p>15 appeared to be hallucinating and confused?</p> <p>16 A Correct.</p> <p>17 Q Do you agree that Mr. Jones' senses,</p> <p>18 condition was impaired to the point that he had the</p> <p>19 inability to react to what providers were telling</p> <p>20 him which ultimately led to DTs that caused his</p> <p>21 death?</p> <p>22 MS. DAMICO: Object to foundation and</p> <p>23 form.</p> <p>24 THE WITNESS: I'm going to restate your</p> <p>25 question just to make sure I understand what</p>	<p style="text-align: right;">Page 124</p> <p>1 hallucinations started on 4/26/18. Could you</p> <p>2 confirm or testify to that now or confirm in your</p> <p>3 record that you actually said that. I have it here</p> <p>4 you said that.</p> <p>5 MR. SMIT: Hallucinations and what, Ron?</p> <p>6 MR. CHAPMAN: Confusion.</p> <p>7 BY MR. CHAPMAN:</p> <p>8 Q Began on 4/26/2018.</p> <p>9 MS. DAMICO: You haven't asked the</p> <p>10 question.</p> <p>11 BY MR. CHAPMAN:</p> <p>12 Q It's in the report. My question is, is</p> <p>13 that your opinion?</p> <p>14 A Is that the first documented confusion</p> <p>15 that any provider or any jail member on 4/26 --</p> <p>16 Q That's not my question. Is it your</p> <p>17 opinion that his hallucinations and confusion</p> <p>18 started on 4/26/18?</p> <p>19 A That's when they were first documented.</p> <p>20 Q Give me one second. (Reviews documents.)</p> <p>21 With respect specifically to Nurse</p> <p>22 Furnace, an hour and a half after being told that</p> <p>23 Mr. Jones was in withdrawal she contacted Nurse</p> <p>24 Practitioner Sherwood. And if you want to say a</p> <p>25 couple of hours. It says an hour and a half. I</p>
<p style="text-align: right;">Page 123</p> <p>1 you're saying. You're asking me that if</p> <p>2 Mr. Jones, despite what was told to him,</p> <p>3 developed DTs as a result of not listening?</p> <p>4 BY MR. CHAPMAN:</p> <p>5 Q No. I'm just asking that from the period</p> <p>6 of, let's say the 26th to the end, that Mr. Jones</p> <p>7 was sufficiently impaired by confusion,</p> <p>8 hallucinations, et cetera, that he was unable to</p> <p>9 care for himself?</p> <p>10 A Absolutely. I mean, you can tell by the</p> <p>11 video and --</p> <p>12 Q I just asked you yes or no. You can</p> <p>13 follow-up on that later.</p> <p>14 A Yes. It appears he was.</p> <p>15 Q And that being impaired ultimately led to</p> <p>16 his continual withdrawal and led to his DTs which</p> <p>17 led to his death. And let me anticipate -- or</p> <p>18 proximate cause. So let's just say led to his</p> <p>19 continual withdrawal and led to his delirium</p> <p>20 tremens?</p> <p>21 A Without medication, appropriate medication</p> <p>22 it would continue on. So I agree with you, yes.</p> <p>23 Q If you could, look to your record if you</p> <p>24 need to. I have it on page 12. Or it may be on 13.</p> <p>25 But I think it was your testimony that confusion and</p>	<p style="text-align: right;">Page 125</p> <p>1 won't quibble over exact time.</p> <p>2 A Yes.</p> <p>3 Q And Nurse Sherwood issued an order to put</p> <p>4 him on medication per CIWA protocol; correct?</p> <p>5 A Correct.</p> <p>6 Q And Nurse Practitioner Sherwood did not</p> <p>7 tell her to give the medication stat; correct?</p> <p>8 A That's true.</p> <p>9 Q And the practice at the jail was to give</p> <p>10 medication at specific set times; correct?</p> <p>11 Withdrawal medication.</p> <p>12 A That's what she said in her deposition.</p> <p>13 Q And there was testimony that I think the</p> <p>14 next time to give the medication would have been at</p> <p>15 1:30?</p> <p>16 A I thought it was 2:00.</p> <p>17 Q Or 2:00. And that's when the medication</p> <p>18 was given?</p> <p>19 A Yes.</p> <p>20 Q Okay. I think it was somewhere around 1</p> <p>21 or 2; right?</p> <p>22 A Correct.</p> <p>23 Q And certainly was sometime after 5:30 in</p> <p>24 the morning; correct?</p> <p>25 A Correct.</p>

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<p style="text-align: right;">Page 126</p> <p>1 Q Would you agree -- strike that.</p> <p>2 Do you agree that nurses are required</p> <p>3 to use their clinical judgment when assessing,</p> <p>4 evaluating patients for health care providers?</p> <p>5 A Sure.</p> <p>6 Q Okay. Do you agree that following the</p> <p>7 order of Nurse Practitioner Sherwood and the</p> <p>8 practice, that Ms. Furnace carried out the order and</p> <p>9 put him on CIWA and gave him the medication at the</p> <p>10 next medication pass?</p> <p>11 A Are you asking me, that's what transpired?</p> <p>12 Q Well, I'm asking you if Nurse Furnace</p> <p>13 complied or followed Nurse Practitioner Sherwood's</p> <p>14 order to give the medication at the next med pass</p> <p>15 because it was not stated stat? Do you agree that's</p> <p>16 what happened?</p> <p>17 A That is what happened. But as you stated</p> <p>18 prior, we have to assess the patient. And this is</p> <p>19 where your nursing judgment comes into play. And</p> <p>20 you have a person who walked in and was fully</p> <p>21 functional on Day 1 in the jail. And now he's</p> <p>22 stumbling, disoriented, talking to himself, picking</p> <p>23 things off the floor that don't exist. And now you</p> <p>24 have a significant change in the patient. And if I</p> <p>25 was Nurse Furnace, a reasonably prudent nurse in</p>	<p style="text-align: right;">Page 128</p> <p>1 Ms. Sherwood. So let's assume that Nurse Sherwood</p> <p>2 gave the medication without stating stat, intended</p> <p>3 the medication not to be given immediately but to be</p> <p>4 given at the next med pass. If true, Nurse Furnace</p> <p>5 followed the order; correct?</p> <p>6 A I mean, Nurse Furnace followed the order.</p> <p>7 Q That's all. Are you familiar with the</p> <p>8 concept of verbal shift reports that are given</p> <p>9 between nurses?</p> <p>10 A I am.</p> <p>11 Q Okay. And those do happen; correct?</p> <p>12 A Every shift. Twice.</p> <p>13 Q You weren't present during shift report</p> <p>14 between Nurse Goetterman and Nurse Furnace; were</p> <p>15 you?</p> <p>16 A I wasn't present, no.</p> <p>17 Q You don't have an audio recording or some</p> <p>18 kind of recording of what took place; do you?</p> <p>19 A I don't.</p> <p>20 Q You don't have any firsthand knowledge of</p> <p>21 what Nurse Furnace and Nurse Goetterman spoke about;</p> <p>22 do you?</p> <p>23 A I do not.</p> <p>24 Q Do you recall Nurse Goetterman testifying</p> <p>25 that he did take shift report from Furnace, and they</p>
<p style="text-align: right;">Page 127</p> <p>1 Nurse Furnace's situation should have asked, do you</p> <p>2 want me to give a now dose or a first dose now</p> <p>3 knowing what I know about alcohol withdrawal and</p> <p>4 what she should know about alcohol withdrawal.</p> <p>5 Because it seems like they would deal with those a</p> <p>6 fair amount. But that wasn't asked. So that's</p> <p>7 where I find that was somewhat of an egregious act</p> <p>8 on her part.</p> <p>9 Q Well, Nurse Furnace and Nurse Sherwood's</p> <p>10 call; correct?</p> <p>11 A They did.</p> <p>12 Q And Nurse Practitioner Sherwood was aware</p> <p>13 of the system and aware of the condition that was</p> <p>14 identified to her about Mr. Jones at that time.</p> <p>15 That's what she testified to; correct?</p> <p>16 A She did.</p> <p>17 Q And Nurse Practitioner Sherwood ordered</p> <p>18 the medication; correct?</p> <p>19 A She did.</p> <p>20 Q So she was aware of what medication needed</p> <p>21 to be given; correct?</p> <p>22 A That I don't remember her saying she knows</p> <p>23 that it was supposed to be given 7 1/2 hours after</p> <p>24 it was ordered.</p> <p>25 Q So you're not here to testify for</p>	<p style="text-align: right;">Page 129</p> <p>1 did discuss Mr. Jones?</p> <p>2 A Yes.</p> <p>3 Q And did you read in Nurse Furnace's</p> <p>4 deposition that she testified that she did discuss</p> <p>5 Mr. Jones along with others with Mr. Goetterman as</p> <p>6 part of the shift report?</p> <p>7 A No.</p> <p>8 Q In fact, she says on page 104 of her</p> <p>9 deposition:</p> <p>10 ANSWER: Any people that had problems</p> <p>11 in the night we had went and saw, anything that</p> <p>12 happened in the night, people in the infirmary,</p> <p>13 anything we need to make sure that needs to be done</p> <p>14 that day. That kind of stuff is discussed during</p> <p>15 the shift report.</p> <p>16 And that's pretty typical of what</p> <p>17 nurses would exchange in a shift report; correct?</p> <p>18 A Correct.</p> <p>19 Q It's not always about people brought to</p> <p>20 the infirmary and those things. It's the nuances</p> <p>21 that are going on with patients so that the nurse</p> <p>22 can kind of get a picture of both the critical</p> <p>23 things, the non critical things that took place</p> <p>24 during the night on that particular shift; right?</p> <p>25 A Right.</p>

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<p style="text-align: right;">Page 130</p> <p>1 Q With respect to whether someone should go</p> <p>2 to the ER or not go to the ER when they're going</p> <p>3 through withdrawals, you agree that that entails</p> <p>4 medical judgment?</p> <p>5 A Yes. It would entail medical judgment.</p> <p>6 Q In fact, one of your criticisms is that</p> <p>7 the proper medical judgment was not exercised?</p> <p>8 A I agree it was not.</p> <p>9 Q In fact, you say that Ms. Furnace did not</p> <p>10 properly exercise medical -- sorry. It's on page 11</p> <p>11 of your report. Paraphrasing.</p> <p>12 You say that the medical judgment</p> <p>13 exercised by Nurse Furnace not to call 911 or send</p> <p>14 him to the emergency room was deficient.</p> <p>15 Is that your opinion?</p> <p>16 A Yes.</p> <p>17 Q And you agree that Nurse Furnace used her</p> <p>18 medical judgment to call NP Sherwood in the morning</p> <p>19 of the 27th?</p> <p>20 A Yes.</p> <p>21 Q And NP Sherwood then made a decision and</p> <p>22 gave some orders; correct?</p> <p>23 A Correct.</p> <p>24 Q And following those orders Mr. Jones was</p> <p>25 brought down to the infirmary; correct?</p>	<p style="text-align: right;">Page 132</p> <p>1 A It does.</p> <p>2 Q There's not an algorithm for everything;</p> <p>3 correct?</p> <p>4 A There is not.</p> <p>5 Q Looking for your opinion where you put the</p> <p>6 little red dots.</p> <p>7 A I have it right here.</p> <p>8 MR. CHAPMAN: I'm going to mark that now.</p> <p>9 MS. DAMICO: We're on 174.</p> <p>10 (The aforementioned document</p> <p>11 marked Deposition Exhibit No.</p> <p>12 174.)</p> <p>13 BY MR. CHAPMAN:</p> <p>14 Q Does your opinion have page numbers</p> <p>15 marked?</p> <p>16 A They do.</p> <p>17 Q So on the opinion, Exhibit 174, is that,</p> <p>18 in fact, your final opinion?</p> <p>19 A It is.</p> <p>20 Q So earlier, a while ago you said that you</p> <p>21 made little red dots by areas where your opinion is</p> <p>22 that the standard of care was breached so that you</p> <p>23 could recall them if asked what your opinions were?</p> <p>24 A If you had given me a broad question, give</p> <p>25 me all your opinions in this case. Instead of me</p>
<p style="text-align: right;">Page 131</p> <p>1 A He was.</p> <p>2 Q You weren't privy to the conversation</p> <p>3 between Ms. Furnace and Ms. Sherwood; correct?</p> <p>4 A I was not.</p> <p>5 Q Assume, as Ms. Sherwood testified, that</p> <p>6 that was, in fact, her order. And Nurse Furnace</p> <p>7 didn't have the ability to disregard that order at</p> <p>8 that moment and send him to the infirmary or to the</p> <p>9 emergency room. Did she?</p> <p>10 A In all actuality, she didn't have to call</p> <p>11 Nurse Practitioner Sherwood. Within their policies</p> <p>12 and procedures she could have transported to the</p> <p>13 emergency room.</p> <p>14 Q That's true. But her medical judgment was</p> <p>15 to call the provider and explain the situation to</p> <p>16 the provider and ask the provider to make a call, so</p> <p>17 to speak, of what should we do; correct?</p> <p>18 A That's what she did.</p> <p>19 Q And that's what nurses can do. Often</p> <p>20 times nurses are at a point -- tell me if you</p> <p>21 agree with this. I'm not sure if I should do this</p> <p>22 or I should do this. So they call the provider and</p> <p>23 say, here's the situation. Do you want me to do</p> <p>24 this, or do you want me to do this? That happens</p> <p>25 regularly in the life of a nurse; correct?</p>	<p style="text-align: right;">Page 133</p> <p>1 going line by line in this report and taking up all</p> <p>2 your time I just put a dot right beside the standard</p> <p>3 of care.</p> <p>4 Q Maybe my question was poor. That's not</p> <p>5 what my question was. The dots reflect your opinion</p> <p>6 where the standard of care was breached?</p> <p>7 A Correct.</p> <p>8 Q Okay. And when did you put those dots on</p> <p>9 there? Before today?</p> <p>10 A The last couple of days.</p> <p>11 Q Okay. In preparation for this deposition?</p> <p>12 A Correct.</p> <p>13 Q Okay. So look on page 9 down at the</p> <p>14 bottom you have three areas that have little dots on</p> <p>15 them; correct?</p> <p>16 A I do.</p> <p>17 Q Okay. Let's go to page 11. The second</p> <p>18 paragraph above. Do you see that? You have four</p> <p>19 little dots.</p> <p>20 A I agree.</p> <p>21 Q And then on page 12 right above your 5</p> <p>22 Section you have 2 little dots; correct?</p> <p>23 MR. SMIT: Sorry. What page?</p> <p>24 MR. CHAPMAN: Page 12 right above Section</p> <p>25 5.</p>

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<p style="text-align: right;">Page 134</p> <p>1 BY MR. CHAPMAN:</p> <p>2 Q The last 2 sentences have little dots on</p> <p>3 it; correct?</p> <p>4 A The last paragraph actually has 4.</p> <p>5 Q Could I see yours?</p> <p>6 A (Document proffered.)</p> <p>7 Q (Reviews document.) I stand corrected.</p> <p>8 On page 12 right above Section 5 you have 4 red dots</p> <p>9 reflecting 4 opinions relating to what you believe</p> <p>10 are violations of the standard of care?</p> <p>11 A Correct.</p> <p>12 Q And then on that same page, the next</p> <p>13 paragraph under Section 5, you have 2 dots where you</p> <p>14 believe the standard of care was breached?</p> <p>15 A Yes.</p> <p>16 MR. SMIT: Sorry. Those are all on page</p> <p>17 12?</p> <p>18 MR. CHAPMAN: Yes.</p> <p>19 BY MR. CHAPMAN:</p> <p>20 Q I looked through the remainder of the</p> <p>21 pages. I don't see any dots, pages 13 to the end.</p> <p>22 MS. DAMICO: I just want to say for the</p> <p>23 record, are you saying that --</p> <p>24 MR. CHAPMAN: Just no speaking. Don't</p> <p>25 give a speaking objection.</p>	<p style="text-align: right;">Page 136</p> <p>1 A Correct.</p> <p>2 Q And you have a red dot on the last</p> <p>3 sentence there in that same paragraph says: Nurse</p> <p>4 Mollo also failed to follow; correct?</p> <p>5 A Correct.</p> <p>6 Q And then the next paragraph, second</p> <p>7 sentence, you also have a dot that says: He did not</p> <p>8 take his vitals as required?</p> <p>9 A Correct.</p> <p>10 Q And then Nurse Card on the next page now</p> <p>11 which I believe is page 14 you have a dot by: LPN</p> <p>12 Card's testimony is disingenuous in my opinion.</p> <p>13 Correct?</p> <p>14 A Correct.</p> <p>15 Q Okay. And further down in the next</p> <p>16 paragraph you have one dot that says: Nurse Card</p> <p>17 did not attempt to take vitals. Did not attempt any</p> <p>18 sort of -- and it continues. Correct?</p> <p>19 A Correct.</p> <p>20 Q And I believe that's it. Look at the last</p> <p>21 2 pages. I don't see any red dots.</p> <p>22 A That's correct.</p> <p>23 Q Again, your opinion does not address the</p> <p>24 proximate cause as to whether any of these breaches</p> <p>25 for the standard of care violations actually</p>
<p style="text-align: right;">Page 135</p> <p>1 MS. DAMICO: Okay.</p> <p>2 BY MR. CHAPMAN:</p> <p>3 Q Do you have other dots?</p> <p>4 A Yes.</p> <p>5 Q I could be color blind. I have cataracts</p> <p>6 but I missed the red dots.</p> <p>7 I'll give you pages 13 and 14 to the</p> <p>8 end. Looking on page 13 -- we may have already</p> <p>9 covered this one. But in the paragraph above Nurse</p> <p>10 Mollo there is one that starts out: Failure to</p> <p>11 appropriately ...</p> <p>12 A That's one, yes.</p> <p>13 Q And going down to Paragraph 6, second</p> <p>14 paragraph. You had one that started out: Nurse</p> <p>15 Mollo also failed ...</p> <p>16 A There's actually one above that.</p> <p>17 Q Which starts out where?</p> <p>18 A That first paragraph.</p> <p>19 Q Nurse Mollo understood ...</p> <p>20 A Four sentences up from Nurse Mollo and it</p> <p>21 starts: She did not take his vital signs as</p> <p>22 required by protocol according to Dr...</p> <p>23 Q Okay. Yes. So then going down below that</p> <p>24 second paragraph, the one starting: Nurse Mollo</p> <p>25 also failed ...</p>	<p style="text-align: right;">Page 137</p> <p>1 proximately caused the death. You leave that up to</p> <p>2 the providers; correct? Wait a second. You're not</p> <p>3 testifying to proximate cause.</p> <p>4 A The only thing I want to say about that,</p> <p>5 and I guess it can be argued or not --</p> <p>6 Q Well, if you're not testifying to</p> <p>7 proximate cause, don't. If you are, we'll be here</p> <p>8 quite a while longer.</p> <p>9 MS. DAMICO: Let him testify.</p> <p>10 THE WITNESS: In medicine we're taught 5</p> <p>11 minutes without oxygen, 5 days without water,</p> <p>12 and 5 weeks without food is your line in the</p> <p>13 sand of not -- a patient not being viable from</p> <p>14 that point. And from the video that I reviewed</p> <p>15 I saw that Mr. Jones was not provided any</p> <p>16 oxygen by artificial respiration through the</p> <p>17 Ambu bag for greater than 5 minutes.</p> <p>18 So when I teach advanced cardiac life</p> <p>19 support as well as pediatric life support we</p> <p>20 stress that when they take basic CPR that the</p> <p>21 algorithm is assessing the patient. They look,</p> <p>22 listen and feel for respirations. There's no</p> <p>23 respirations we start chest compressions, and</p> <p>24 we Ambu the patient at a 30-compression to 2</p> <p>25 breath ratio for 5 cycles and we reassess.</p>

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<p style="text-align: right;">Page 138</p> <p>1 We can see Nurse Mollo doing chest</p> <p>2 compressions and occasionally stopping chest</p> <p>3 compressions, but he was not getting any oxygen</p> <p>4 as a result of an Ambu bag respiration in that</p> <p>5 time. So that I can say comfortably he</p> <p>6 exceeded past 5 minutes of receiving any oxygen</p> <p>7 through the Ambu bag from Nurse Goetterman.</p> <p>8 BY MR. CHAPMAN:</p> <p>9 Q I guess my question is, you don't know if</p> <p>10 that proximately caused his death. He may have died</p> <p>11 when he was on the toilet?</p> <p>12 A Oh, he did die when he was on the toilet.</p> <p>13 But what we did there -- what the nurses did there</p> <p>14 is he more or less ensured he was going to have</p> <p>15 anoxic brain injury as a result of the cardiac</p> <p>16 arrest because they were doing chest compression,</p> <p>17 but they were not giving supplemental oxygen through</p> <p>18 Ambu bag.</p> <p>19 Q So is it your testimony then that you are</p> <p>20 giving proximate cause testimony as to what he</p> <p>21 actually died of?</p> <p>22 A I didn't say he actually -- I can tell you</p> <p>23 he died -- it was anoxic brain injury, and he was</p> <p>24 proven brain dead as a result of that. So I can say</p> <p>25 that because it's stated within the records by the</p>	<p style="text-align: right;">Page 140</p> <p>1 that come out of a cardiac arrest, after their</p> <p>2 cardiac arrest, after they were -- hypothermia</p> <p>3 protocol as he received. And you have somebody that</p> <p>4 you talk to them and they're just a little off</p> <p>5 center. And that's a minor degree of their anoxic</p> <p>6 injury during their cardiac arrest.</p> <p>7 Q But listen to my question. You cannot say</p> <p>8 within a reasonable degree of medical certainty</p> <p>9 whether or not he had anoxic brain injury while he</p> <p>10 was on the toilet; correct?</p> <p>11 A I think you couldn't say that.</p> <p>12 Q And you can't say that -- let's use this</p> <p>13 concept. I know it's a medical concept, but</p> <p>14 irreversible anoxic brain injury, whether that</p> <p>15 occurred while he was on the toilet; correct?</p> <p>16 MS. DAMICO: Objection to foundation.</p> <p>17 THE WITNESS: They started chest</p> <p>18 compressions --</p> <p>19 BY MR. CHAPMAN:</p> <p>20 Q Listen to my question. You can not say</p> <p>21 within a reasonable degree of medical certainty that</p> <p>22 irreversible anoxic brain damage did not occur while</p> <p>23 he was on the toilet; correct?</p> <p>24 MS. DAMICO: Same objection.</p> <p>25 THE WITNESS: Yes.</p>
<p style="text-align: right;">Page 139</p> <p>1 physicians. And I can also tell you that if a</p> <p>2 patient isn't provided oxygen. Nurse Goetterman had</p> <p>3 an Ambu bag sitting right beside him. He just never</p> <p>4 utilized it. Nurse Mollo did chest compressions.</p> <p>5 Nurse Goetterman did not do the Ambu bag</p> <p>6 respirations that are required to be done by the</p> <p>7 American Heart Association through their basic CPR</p> <p>8 algorithm.</p> <p>9 Q That might be true but you can't testify</p> <p>10 that but for that he would have lived; correct?</p> <p>11 A I can't say he would have lived or if he</p> <p>12 would have had anoxic injury because he did lay</p> <p>13 motionless on the toilet for some minutes before</p> <p>14 chest compressions were started.</p> <p>15 Q So within a reasonable degree of medical</p> <p>16 certainty you can't testify as to exactly when</p> <p>17 anoxic brain injury occurred?</p> <p>18 A Correct.</p> <p>19 Q Okay. It could have occurred within a</p> <p>20 reasonable degree of medical certainty while he was</p> <p>21 on the toilet; correct?</p> <p>22 A Him not breathing, he would develop a</p> <p>23 degree of anoxic injury. And as time progressed</p> <p>24 with no respiratory effort he would have increased</p> <p>25 his degree of anoxic injury. You have some people</p>	<p style="text-align: right;">Page 141</p> <p>1 MR. CHAPMAN: The notes that we have here,</p> <p>2 can we mark these? I think we did.</p> <p>3 BY MR. CHAPMAN:</p> <p>4 Q These notes which are Exhibit No. 173, did</p> <p>5 you create these notes at one period of time or over</p> <p>6 a period of time?</p> <p>7 A It would have been all at one time for</p> <p>8 let's see -- it's been over a period of time. One</p> <p>9 would be the initial review of records I received.</p> <p>10 And then I believe the one page here was --</p> <p>11 Q Which page?</p> <p>12 A The medical examiner's report, their</p> <p>13 diagnosis. So it's been over a period of time. And</p> <p>14 then I did this (indicates) way later.</p> <p>15 Q Okay. So I can't follow what you're</p> <p>16 saying. So "this way later" we're going to label.</p> <p>17 Why don't you label that page 1 and put 1 in the</p> <p>18 circle. And we're going to put that in the order in</p> <p>19 which you believe you did that.</p> <p>20 A (Witness complies.)</p> <p>21 Q So the timeline, this was prepared much</p> <p>22 later?</p> <p>23 A Yes.</p> <p>24 Q Okay. And then identify the next page. I</p> <p>25 think we did that the wrong way. Cross out the 1</p>

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<p style="text-align: right;">Page 142</p> <p>1 and just initial that you crossed that out. I think</p> <p>2 that's the way we do this. Now, put these in the</p> <p>3 order in which timeframe wise you did this. Which</p> <p>4 one you created first and then second. I know they</p> <p>5 didn't happen contemporaneously, put them in the</p> <p>6 order.</p> <p>7 A You said the most recent?</p> <p>8 Q Yes. The most recent -- no.</p> <p>9 A Or do you want me to do 173 A, B, C, D, E?</p> <p>10 Q If you could do it not the most recent,</p> <p>11 but the one you would have prepared first, second</p> <p>12 and third and then fourth. So this is the last --</p> <p>13 A This (indicates) is the one I did very</p> <p>14 first. It's four pages. This (indicates) is the</p> <p>15 one I did last.</p> <p>16 Q So the order you have in reverse</p> <p>17 chronological order from the early on, the one you</p> <p>18 prepared, the next, the next, then it ends with the</p> <p>19 one you did last week or whenever you prepared it.</p> <p>20 A Correct.</p> <p>21 Q Okay. Could you mark it 1, 2, 3, 4, 5.</p> <p>22 A (Witness complies.)</p> <p>23 Q So is 1 the most recent or is it the first</p> <p>24 one you did?</p> <p>25 A The 1 is most recent.</p>	<p style="text-align: right;">Page 144</p> <p>1 chest compressions were started you would have</p> <p>2 gotten in below that 5-minute mark. But Nurse</p> <p>3 Goetterman, because he did not start assisting</p> <p>4 respirations then you essentially crossed over that</p> <p>5 line to ensure that Mr. Jones would have a</p> <p>6 devastating anoxic injury.</p> <p>7 Q Anoxic brain injury can occur within 3</p> <p>8 minutes, sometimes 2; right?</p> <p>9 A As I stated before, you can have varying</p> <p>10 degrees of anoxic injury. His anoxic injury</p> <p>11 resulted in brain death.</p> <p>12 Q Anoxic injury could have occurred within a</p> <p>13 couple of minutes; correct?</p> <p>14 A As I said before, sure. You will have</p> <p>15 patients that are just a little off center. And you</p> <p>16 will have people that --</p> <p>17 Q Listen to my question.</p> <p>18 MS. DAMICO: Let him finish his answer.</p> <p>19 THE WITNESS: Then you'll have people that</p> <p>20 will drool on themselves. Those are varying</p> <p>21 degrees of anoxic injury.</p> <p>22 BY MR. CHAPMAN:</p> <p>23 Q Listen to my question. Irreversible</p> <p>24 anoxic brain injury that can cause death can occur</p> <p>25 in as little as 3 minutes; correct?</p>
<p style="text-align: right;">Page 143</p> <p>1 Q Okay.</p> <p>2 A One with a box. 2 with a box. And so on</p> <p>3 and so forth.</p> <p>4 Q Yes. That would be good. There's some</p> <p>5 red and then there's some other colors. Does the</p> <p>6 color that you used mean anything?</p> <p>7 A That means I'm somewhat anal. When I</p> <p>8 started this I had a different color per nurse with</p> <p>9 my intention with the dates written in red. And</p> <p>10 that just went to crap so I gave up.</p> <p>11 Q Okay.</p> <p>12 MR. CHAPMAN: Madam Court Reporter, before</p> <p>13 we started marking this I asked a question.</p> <p>14 Could you read back that question.</p> <p>15 (Requested question and answer</p> <p>16 was read back and the</p> <p>17 proceedings resumed.)</p> <p>18 BY MR. CHAPMAN:</p> <p>19 Q And I want to clarify what the yes means.</p> <p>20 Yes means you agree with the statement, correct?</p> <p>21 A Yes. That I can say with a reasonable</p> <p>22 degree of medical certainty that I do not feel that</p> <p>23 his anoxic injury resulted while he was sitting on</p> <p>24 the toilet. If you take the timing in which he went</p> <p>25 unresponsive on the toilet to the time in which</p>	<p style="text-align: right;">Page 145</p> <p>1 A What I've been taught is 5 minutes without</p> <p>2 oxygen and I'll stick to that.</p> <p>3 Q You're testifying as to what you believe</p> <p>4 you were taught or what you recall being taught.</p> <p>5 Being a nurse you have never made a determination as</p> <p>6 to whether somebody has anoxic brain injury as a</p> <p>7 medical provider; correct?</p> <p>8 A That's true.</p> <p>9 Q Being a nurse you can only assess;</p> <p>10 correct?</p> <p>11 A In the legal sense of the word I will say</p> <p>12 yes. But in the instance of care unit our</p> <p>13 physicians do rely heavily on the nurse's opinions</p> <p>14 in the care of their patient.</p> <p>15 Q The Nurse Practices Act says the nurse</p> <p>16 licensure is limited to doing assessments; correct?</p> <p>17 A It does.</p> <p>18 Q Okay. You were not present and did not do</p> <p>19 an assessment of Mr. Jones after he was pulled off</p> <p>20 the toilet; correct?</p> <p>21 A No. I had a visual assessment of what I</p> <p>22 could see on camera.</p> <p>23 Q But you were not there doing the</p> <p>24 assessment; correct?</p> <p>25 A No.</p>

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<p style="text-align: right;">Page 146</p> <p>1 Q You weren't there doing an assessment</p> <p>2 while the nurses were working on him; correct?</p> <p>3 A No.</p> <p>4 Q The medical provider that actually did do</p> <p>5 treatment never gave an opinion as to when anoxic</p> <p>6 brain injury became irreversible; correct?</p> <p>7 A Not that I read.</p> <p>8 Q But you think being a nurse you're capable</p> <p>9 of making that determination even though the health</p> <p>10 care providers did not make that determination?</p> <p>11 A Those health care providers also weren't</p> <p>12 at the bedside and assessed him coming off the</p> <p>13 toilet. So therefore, they didn't have no idea how</p> <p>14 long he sat on the toilet, how long -- they probably</p> <p>15 had no idea that Nurse Goetterman never did</p> <p>16 respiratory or assisted ventilations until some 7</p> <p>17 minutes after they pulled him off the toilet.</p> <p>18 Q Except now you're totally speculating.</p> <p>19 You don't know what they saw, what they didn't see,</p> <p>20 what they heard, what they observed; correct?</p> <p>21 A Sure. I don't.</p> <p>22 Q The medical provider -- I'm sorry. The</p> <p>23 autopsy lists the cause of death; correct?</p> <p>24 A It does.</p> <p>25 Q All right. And the autopsy says that he</p>	<p style="text-align: right;">Page 148</p> <p>1 acute ethanol withdrawal; correct? That was the</p> <p>2 final diagnosis; correct?</p> <p>3 A [Sequelethol.]</p> <p>4 Q What?</p> <p>5 A [Sequelethol.]</p> <p>6 Q Okay. In your report isn't one of the</p> <p>7 criticisms that you have is that Corizon policies</p> <p>8 and procedures were not followed; correct?</p> <p>9 A Correct.</p> <p>10 Q Well, you would agree with me that in</p> <p>11 order for these procedures not to be followed,</p> <p>12 Corizon had to have policies and procedures?</p> <p>13 A Correct.</p> <p>14 Q And if those policies and procedures were</p> <p>15 followed it's your testimony the outcome might have</p> <p>16 been different?</p> <p>17 A Absolutely.</p> <p>18 MR. CHAPMAN: Okay. I have no further</p> <p>19 questions. Can we take a break before you</p> <p>20 start?</p> <p>21 MS. DAMICO: Okay. And I think Peter has</p> <p>22 some questions first.</p> <p>23 MR. CHAPMAN: So you have some questions,</p> <p>24 Peter?</p> <p>25 MR. SMIT: I do.</p>
<p style="text-align: right;">Page 147</p> <p>1 died from complications from acute alcohol</p> <p>2 withdrawal; correct?</p> <p>3 A Correct.</p> <p>4 Q It doesn't say that he died of anoxic</p> <p>5 brain injury; correct?</p> <p>6 A He was declared brain dead.</p> <p>7 Q That's not my question. I'm asking you</p> <p>8 what the autopsy says. That's a simple no. Does</p> <p>9 the autopsy say he died of complications of anoxic</p> <p>10 brain injury?</p> <p>11 A No.</p> <p>12 Q The autopsy says: Medical complications</p> <p>13 of chronic ethanol abuse, history of ethanol abuse,</p> <p>14 alcoholic hepatitis, acute hepatitis, ischemic --</p> <p>15 history of shaking, hallucinations prior to being</p> <p>16 found unresponsive in the jail; correct?</p> <p>17 MS. DAMICO: He'd like to see the record</p> <p>18 and then ask him about it.</p> <p>19 BY MR. CHAPMAN:</p> <p>20 Q His heart was harvested; correct?</p> <p>21 A It was.</p> <p>22 Q And the autopsy also indicated that he had</p> <p>23 toxic ischemic encephalopathy; correct?</p> <p>24 A Correct.</p> <p>25 Q Medical examiner says that he died of</p>	<p style="text-align: right;">Page 149</p> <p>1 MR. CHAPMAN: Let's take a break and then</p> <p>2 come back if you don't mind.</p> <p>3 MR. SMIT: 10 minutes?</p> <p>4 MR. CHAPMAN: That's fine.</p> <p>5 Can you mark the flash drive Exhibit --</p> <p>6 what are we up to?</p> <p>7 MS. DAMICO: 175.</p> <p>8 MR. CHAPMAN: Mark the flash drive Exhibit</p> <p>9 175.</p> <p>10 (The aforementioned flash drive</p> <p>11 marked Deposition Exhibit No.</p> <p>12 175.)</p> <p>13</p> <p>14 (After the break the following</p> <p>15 testimony resumed on the</p> <p>16 record:)</p> <p>17 CROSS EXAMINATION</p> <p>18 BY MR. SMIT:</p> <p>19 Q Mr. Furman, my name is Peter Smit, and I</p> <p>20 represent the County defendants in this case.</p> <p>21 Correctional officers and the like. I'm going to</p> <p>22 ask you a few questions. If you don't understand,</p> <p>23 let me know. I'll try to rephrase it; all right?</p> <p>24 A Okay.</p> <p>25 Q As I understand it, you have never worked</p>

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<p style="text-align: right;">Page 150</p> <p>1 at a correctional facility in any capacity?</p> <p>2 A Other than what's in our hospital where we</p> <p>3 have a department of corrections unit.</p> <p>4 Q And by that I take it what you're talking</p> <p>5 about is an area in the hospital that is used to</p> <p>6 treat prisoners who have been transferred from such</p> <p>7 a facility?</p> <p>8 A Transferred in from a state correctional</p> <p>9 facility; yes, sir.</p> <p>10 Q But you've not worked in a prison or jail,</p> <p>11 per se?</p> <p>12 A That is correct.</p> <p>13 Q And looking at your background it appears</p> <p>14 that prior to your career in nursing you were a</p> <p>15 paramedic; correct?</p> <p>16 A I was.</p> <p>17 Q Then you, I gather, went to school and</p> <p>18 received training to be an RN?</p> <p>19 A That is accurate.</p> <p>20 Q Is there a particular reason you went into</p> <p>21 nursing as opposed to going to medical school and</p> <p>22 being an M.D.?</p> <p>23 A I have been asked that a multitude of</p> <p>24 times. And what I said to my patient just last</p> <p>25 Saturday or Friday is I like, I like talking to my</p>	<p style="text-align: right;">Page 152</p> <p>1 really smart. And I think you would do well at</p> <p>2 this. I think you should consider it. So I did.</p> <p>3 And I made my CV look decent, and I made a fee</p> <p>4 schedule. And at that point I started applying for</p> <p>5 jobs on INCEXchange which was a Yahoo blog site.</p> <p>6 Q And that has now evolved into you've done</p> <p>7 maybe 200 depositions like this?</p> <p>8 A Not 200 depositions. Just about 200 case</p> <p>9 reviews. Depositions have been, I'm not sure.</p> <p>10 Maybe 55 or 57. Somewhere in that ballpark.</p> <p>11 Q What -- is Richmond your home?</p> <p>12 A I live about an hour and 20 minutes</p> <p>13 outside. Just an hour and 20 minutes or 72 miles</p> <p>14 west of Richmond. And I live about 60 miles south</p> <p>15 of Charlottesville in the middle of the woods.</p> <p>16 Q A bit reclusive?</p> <p>17 A A touch.</p> <p>18 Q Did you grow up in Virginia?</p> <p>19 A I grew up down towards Virginia Beach in a</p> <p>20 city called Chesapeake which is one city over from</p> <p>21 the ocean. And I moved out of Chesapeake I believe</p> <p>22 it was 2001. The jobs up in Richmond were better</p> <p>23 than what they were down in the area in which I grew</p> <p>24 up. It's a large military population so we had</p> <p>25 military wives that would come in and sometimes</p>
<p style="text-align: right;">Page 151</p> <p>1 patients. I like interacting. I like teaching</p> <p>2 them. And I note that physicians will come in,</p> <p>3 they'll listen to them breath, and then they're</p> <p>4 backtracking right back out through the door in</p> <p>5 which they arrived about 3 to 4 minutes prior to</p> <p>6 that. I don't like to function like that. I like</p> <p>7 talking to the patients. And you find physicians</p> <p>8 are usually, only the facts, ma'am. As Joe Friday</p> <p>9 said. So that's what I didn't like so, therefore,</p> <p>10 I'm happy I chose the route of nursing over the</p> <p>11 route of a physician.</p> <p>12 Q But you've branched out from pure nursing</p> <p>13 and interacting relationship-wise with your patients</p> <p>14 into the legal world; correct?</p> <p>15 A I am still a full-time employee of the</p> <p>16 hospital. So I still work 36 to 60 hours per week</p> <p>17 in the hospital. I just added another dimension in</p> <p>18 my work.</p> <p>19 Q When and why did you decide to start</p> <p>20 charging and testifying for lawyers?</p> <p>21 A So some years ago one of the nurses that I</p> <p>22 worked with, Linda Dunn, who also reviewed medical</p> <p>23 malpractice lawsuits, and she told me that, hey, you</p> <p>24 work everywhere in this hospital. You are sometimes</p> <p>25 opinionated. And I think you would do -- and you're</p>	<p style="text-align: right;">Page 153</p> <p>1 would work for less money. And the jobs up here</p> <p>2 were better. So we moved up in this direction. As</p> <p>3 well as land was a lot cheaper.</p> <p>4 Q As I understand it you have done a fair</p> <p>5 amount of researching and reviewing articles in this</p> <p>6 case pertaining to alcohol withdrawal; is that fair?</p> <p>7 A Yes, sir.</p> <p>8 Q And you've looked at a section of the</p> <p>9 Lippincott manual regarding alcohol withdrawal;</p> <p>10 correct?</p> <p>11 A Correct.</p> <p>12 Q Ms. Damico has provided you with the site</p> <p>13 for a number of articles which you have I guess at</p> <p>14 her request looked up and reviewed on alcohol</p> <p>15 withdrawal; correct?</p> <p>16 A Correct.</p> <p>17 Q You have Googled on the internet CIWA and</p> <p>18 information pertaining to the CIWA scale; correct?</p> <p>19 A I went to Google search. I was wanting to</p> <p>20 download a CIWA form.</p> <p>21 Q Have you particularly specialized in your</p> <p>22 career on treating alcohol withdrawal?</p> <p>23 A I wouldn't say I specialized in it. It's</p> <p>24 a patient that I can potentially care for on any day</p> <p>25 of the week in which I work at the bedside. So it's</p>

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<p style="text-align: right;">Page 154</p> <p>1 just as chest pain rule out MI stroke or diabetic</p> <p>2 ketoacidosis. Those are all potential patients I</p> <p>3 can care for. So therefore, I have to understand</p> <p>4 how to care for each of those.</p> <p>5 Q Have you treated -- or how many patients</p> <p>6 have you treated where the only item that you</p> <p>7 treated them for was alcohol withdrawal and/or DTs?</p> <p>8 A The total number of patients since I've</p> <p>9 been a nurse?</p> <p>10 Q Yes. Just alcohol withdrawals and DTs?</p> <p>11 Not something where someone came in with a</p> <p>12 particular medical problem, and they also had some</p> <p>13 withdrawal issues. People that you have treated</p> <p>14 purely for alcohol withdrawal and delirium tremens?</p> <p>15 A I would say we're somewhere between 50 and</p> <p>16 100.</p> <p>17 Q What do you mean "we?"</p> <p>18 A We I mean me.</p> <p>19 Q I mean, you're not Sybil. So in your</p> <p>20 career you've done maybe 50 to 100 alcohol</p> <p>21 withdrawal patients?</p> <p>22 A Yes. Whether they came in as a seizure</p> <p>23 patient that was found to be in alcohol withdrawal</p> <p>24 or, you know, they came in wanting -- we</p> <p>25 occasionally have patients come into the emergency</p>	<p style="text-align: right;">Page 156</p> <p>1 different from all the rest of them when it comes to</p> <p>2 alcohol withdrawal?</p> <p>3 A The rest of the nurses that are in and</p> <p>4 around me between me and Richmond?</p> <p>5 Q No. All the ER critical care nurses</p> <p>6 between Grand Rapids and Richmond? What do you have</p> <p>7 in your background or what do you possess knowledge</p> <p>8 wise and expertise wise that would mean it would</p> <p>9 make sense to go all the way to Virginia to have you</p> <p>10 testify instead of people in Michigan?</p> <p>11 I guess the simple question is, what</p> <p>12 makes you special here regarding alcohol withdrawal?</p> <p>13 MS. DAMICO: I'm going to object to form</p> <p>14 and foundation.</p> <p>15 THE WITNESS: I'm not sure what makes me</p> <p>16 special. I understand alcohol withdrawal. I</p> <p>17 routinely do CIWA scoring on my patients, and I</p> <p>18 understand the sequella from being without</p> <p>19 benzodiazepines when you're going through</p> <p>20 alcohol withdrawal. So, you know, that's a</p> <p>21 reasonably prudent nurse. And if we're looking</p> <p>22 at the standard of care what a reasonably</p> <p>23 prudent nurse would be, that's what I bring</p> <p>24 myself to be.</p> <p>25</p>
<p style="text-align: right;">Page 155</p> <p>1 department wanting detox and ask us how to detox.</p> <p>2 And sometimes they are also admitted and allow our</p> <p>3 substance abuse nurses to work with them.</p> <p>4 Q Are you what could generally be described</p> <p>5 as a critical care nurse?</p> <p>6 A I would agree with that.</p> <p>7 Q Would you describe yourself as an ER</p> <p>8 nurse?</p> <p>9 A I work in the critical care area more</p> <p>10 often than the emergency room. And my certification</p> <p>11 is in critical care nursing.</p> <p>12 Q So generally, you're an emergency room</p> <p>13 critical care type nurse?</p> <p>14 A Yes.</p> <p>15 Q How many ER critical care nurses would you</p> <p>16 estimate are located between here and where you're</p> <p>17 located by Richmond, Virginia? Thousands?</p> <p>18 A I think our hospital employs about 20,000</p> <p>19 nurses and we have several hospitals in and around</p> <p>20 Richmond. So yes, you're talking about thousands of</p> <p>21 nurses.</p> <p>22 Q So out of all of these thousands of nurses</p> <p>23 between where we are in Michigan and where you are</p> <p>24 down in Virginia, the obvious question is why you?</p> <p>25 What do you bring to this party, if you will,</p>	<p style="text-align: right;">Page 157</p> <p>1 BY MR. SMIT:</p> <p>2 Q Critical care ER nurses in Michigan don't</p> <p>3 know that?</p> <p>4 A That I'm not sure. Because, you know, I</p> <p>5 don't know. I held my Michigan license some years</p> <p>6 ago. I just never worked in Michigan, but I had a</p> <p>7 license there.</p> <p>8 Q Have you visited our fine state?</p> <p>9 A It's too cold up there for me.</p> <p>10 Q So you've never been in Michigan?</p> <p>11 A I have not.</p> <p>12 Q Does the standard of care for nursing and</p> <p>13 nurses vary from region to region, state to state?</p> <p>14 A It could, yes. I mean, you have national</p> <p>15 standards of care and you have local standards of</p> <p>16 care.</p> <p>17 Q Are you saying that the nurses in this</p> <p>18 case breached the standard of care in Virginia or in</p> <p>19 Michigan?</p> <p>20 A They breached the standard of care in</p> <p>21 Michigan.</p> <p>22 Q How do you know what the standard of care</p> <p>23 is in Michigan? Or do you?</p> <p>24 A What I take from it is when I read through</p> <p>25 deposition testimony of the nursing staff and what</p>

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<p style="text-align: right;">Page 158</p> <p>1 is required of the nursing staff in those situations</p> <p>2 as well as I look at the data of the areas, you</p> <p>3 know, the census data that I looked at. As well as</p> <p>4 if I'm testifying against a hospital case it would</p> <p>5 be, you know, the size of the hospital.</p> <p>6 Q You testified for, at least I think you</p> <p>7 had, looks like at least 3 law firms in Michigan;</p> <p>8 right? Peacock, Lipton and Sheremet?</p> <p>9 A Correct.</p> <p>10 Q And those Michigan law firms all had the</p> <p>11 plaintiff, the people suing?</p> <p>12 A Correct.</p> <p>13 Q Did you testify as to the standard of care</p> <p>14 for the medical people in those cases?</p> <p>15 A I did.</p> <p>16 Q And how did you determine what the</p> <p>17 standard of care was in Michigan?</p> <p>18 A It was -- I looked and evaluated the</p> <p>19 hospital, the size of hospital between my hospital,</p> <p>20 my area, the number of people in my area. Also we</p> <p>21 utilize or I utilize the discovery depositions taken</p> <p>22 of the medical staff, what physicians expected, what</p> <p>23 nurses expected. And from that you can conclude of</p> <p>24 what is the standard of care. Also if you look at</p> <p>25 national examinations, the ones that are given by</p>	<p style="text-align: right;">Page 160</p> <p>1 LPN Steimel to evaluate Mr. Jones.</p> <p>2 Q That's when he started showing DTs,</p> <p>3 hallucinating, confusion and the like?</p> <p>4 A It was prior to that because Deputy Jordan</p> <p>5 entered a communication in their computer system</p> <p>6 that he was hallucinating. So those are signs of</p> <p>7 the withdrawal and also Deputy -- I'm going to botch</p> <p>8 his name so I'll apologize to him before I do that</p> <p>9 P-L-U-G-G-E -- in his classification (inaudible) was</p> <p>10 having signs of withdrawals. And Deputy P-L-U-G-G-E</p> <p>11 told him to tell the staff -- Plugge -- told Deputy</p> <p>12 Plugge to tell the staff that he needs to be seen by</p> <p>13 medical. And that was on the 25th. That morning</p> <p>14 time was his classification (inaudible.)</p> <p>15 Q Just because someone has some sign of</p> <p>16 withdrawal does that mean they need some specific</p> <p>17 medication or other treatment?</p> <p>18 A Sure. I mean, you will find that in</p> <p>19 alcohol withdrawal, early recognition and early</p> <p>20 intervention you'll have better outcomes. But</p> <p>21 because we waited so long to initiate intervention</p> <p>22 Mr. Jones had a bad outcome.</p> <p>23 Q Does everyone that has any of the signs on</p> <p>24 a CIWA score: Little shaky hands, perspiring, a</p> <p>25 little nervous, they all need to be medicated and</p>
<p style="text-align: right;">Page 159</p> <p>1 American Association of Critical Care Nurses. Those</p> <p>2 examinations are given to us here in Virginia, you</p> <p>3 in Michigan and the people out in Anchorage, Alaska.</p> <p>4 We're given the exact same examinations on how to</p> <p>5 care for these types of patients.</p> <p>6 Q You indicated that Mr. Jones was denied</p> <p>7 access to care for 34 hours; is that correct?</p> <p>8 A That's correct.</p> <p>9 Q When did that 34 hours specifically begin?</p> <p>10 A It would begin when Deputy Cooper made a</p> <p>11 phone call to -- or when she was told by Mr. Jones</p> <p>12 that he felt he was going through withdrawal and</p> <p>13 then the phone call in which she made to the medical</p> <p>14 infirmary that he needed, you know, withdrawal</p> <p>15 medication or that he was going through withdrawal.</p> <p>16 And she entered into the computer system, and from</p> <p>17 what I understand was an alert which should have</p> <p>18 gone to the nurse, the charge nurse, and what they</p> <p>19 made their withdrawal checklist from.</p> <p>20 Q And that's roughly about 10:13 in the</p> <p>21 evening on April 24, 2018?</p> <p>22 A Correct.</p> <p>23 Q And then is it that early morning of the</p> <p>24 26th that that 36 hours ends?</p> <p>25 A It's when Deputy Jordan stopped or asked</p>	<p style="text-align: right;">Page 161</p> <p>1 treated? Is that your testimony?</p> <p>2 A I didn't say they have to be medicated.</p> <p>3 This is dependent on -- this is when a good history</p> <p>4 and a physical would come into play. So that's why</p> <p>5 they have policies and procedures to be evaluated by</p> <p>6 the registered nurse. So once these alerts went</p> <p>7 into place the registered nurse would do their Saw</p> <p>8 Net, do their face-to-face encounter with the</p> <p>9 patient, get a more in-depth history. Because</p> <p>10 you'll never be able to predict how severe the</p> <p>11 withdrawals are going to be. But once they cross</p> <p>12 that threshold, as well as some of the peer reviewed</p> <p>13 articles we have, it shows if a patient is 8 to 12</p> <p>14 then they need to get this amount of medicine, and</p> <p>15 they need to be re-evaluated in an hour or 2. If</p> <p>16 they're worsening then they get another dose of</p> <p>17 medicine. So those are kind of PRNs based on the</p> <p>18 CIWA scoring.</p> <p>19 Q Given you are not giving an opinion</p> <p>20 regarding proximate cause, I gather that you can't</p> <p>21 tell us with a reasonable degree of medical</p> <p>22 certainty when the last point was in this timeline</p> <p>23 that Mr. Jones could have been treated and his life</p> <p>24 saved; is that correct?</p> <p>25 A Like I said, it's 5 minutes without</p>

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<p style="text-align: right;">Page 162</p> <p>1 oxygen. So there would be a chance that he could</p> <p>2 have been saved. But once you're past that 5-minute</p> <p>3 timeline that's your line in the sand not being able</p> <p>4 to be saved.</p> <p>5 Q Do you have an opinion --</p> <p>6 MR. CHAPMAN: Wait a minute. I want to</p> <p>7 object to the answer as being outside his scope</p> <p>8 of practice.</p> <p>9 BY MR. SMIT:</p> <p>10 Q Do you have an opinion if Mr. Jones was</p> <p>11 transferred to a hospital on April 26th at 6 a.m.</p> <p>12 the outcome would have been different than if he had</p> <p>13 been transferred to the infirmary? Were you asked</p> <p>14 to give an opinion on that?</p> <p>15 MR. CHAPMAN: Objection. Outside the</p> <p>16 scope of his practice.</p> <p>17 THE WITNESS: I didn't hear the last part</p> <p>18 of your question, sir.</p> <p>19 BY MR. SMIT:</p> <p>20 Q I'm asking if you were asked to give an</p> <p>21 opinion in this case as to whether Mr. Jones would</p> <p>22 be alive today if he had been transferred to a</p> <p>23 hospital instead of the infirmary?</p> <p>24 MR. CHAPMAN: Same objection.</p> <p>25 THE WITNESS: Nobody would be able to tell</p>	<p style="text-align: right;">Page 164</p> <p>1 A No.</p> <p>2 Q In your review of the documents and the</p> <p>3 testimony in this case would you say that Mr. Jones</p> <p>4 was candid about his alcohol use at intake?</p> <p>5 A On intake it doesn't appear by what's</p> <p>6 documented.</p> <p>7 Q And did you review information where</p> <p>8 Officer Plugge advised Mr. Jones to contact the</p> <p>9 medical people when they came around?</p> <p>10 A Exactly. I saw that. And that's what I</p> <p>11 just told you. But he had no access. He stood in</p> <p>12 front of Deputy Grimmett I believe to try to get</p> <p>13 medical, but he appeared to be ignored.</p> <p>14 Q So from that point until his transfer to</p> <p>15 the infirmary is it your testimony he was denied</p> <p>16 access or proximity to any of the medical people?</p> <p>17 A He was denied access. There's no call</p> <p>18 bell in his cell. He couldn't reach out and call</p> <p>19 the medical people himself. It was merely by</p> <p>20 observation by Deputy Jordan that actually got the</p> <p>21 medical people involved in the first place. If</p> <p>22 Deputy Jordan would have never contacted the medical</p> <p>23 people or asked LPN Steimel to evaluate Mr. Jones he</p> <p>24 would never have been evaluated.</p> <p>25 Q If you're a nurse and you're in Mr. Jones'</p>
<p style="text-align: right;">Page 163</p> <p>1 you that.</p> <p>2 BY MR. SMIT:</p> <p>3 Q Okay. Do you have any expertise or</p> <p>4 training in the policy, standards or procedures of</p> <p>5 correctional institutions?</p> <p>6 A For correctional institutions only?</p> <p>7 Q Yes.</p> <p>8 A No.</p> <p>9 Q And you're not offering an opinion in this</p> <p>10 case nor have you been asked to offer an opinion as</p> <p>11 to what the officers being sued should have known</p> <p>12 medically?</p> <p>13 A No. You wouldn't expect officers to know</p> <p>14 medical. But sometimes -- obviously, Deputy Jordon</p> <p>15 understood something was definitely wrong. Because</p> <p>16 one, he entered this -- after 1:00 on the 26th he</p> <p>17 entered in a notification in their computer system</p> <p>18 and then he flagged down an LPN doing withdrawal</p> <p>19 checks at or about 4 a.m. So obviously, he</p> <p>20 recognized something was grossly wrong with</p> <p>21 Mr. Jones and asked for somebody to be seen.</p> <p>22 Q My question was --</p> <p>23 A I'm answering your question.</p> <p>24 Q No, no, no, you're not. I asked if you've</p> <p>25 been asked to give an opinion on that by Ms. Damico?</p>	<p style="text-align: right;">Page 165</p> <p>1 cell to give him his medication and he refuses, what</p> <p>2 are your options?</p> <p>3 A Your options are at that point if anybody</p> <p>4 refuses medication the first thing you do is you try</p> <p>5 to educate them on why they are taking that</p> <p>6 medication. And you also are evaluating their</p> <p>7 capacity to understand or making an attempt to</p> <p>8 evaluate their capacity to see if they understand</p> <p>9 the ramification of their actions.</p> <p>10 Q What's your next option once you've done</p> <p>11 those two?</p> <p>12 MS. DAMICO: Let him finish.</p> <p>13 MR. SMIT: Sorry.</p> <p>14 THE WITNESS: So once you evaluate and</p> <p>15 then you have to advance past that as almost a</p> <p>16 medical TPO and get a forced medical order from</p> <p>17 a judge. And then after that, obviously, it</p> <p>18 would be transport a patient to the emergency</p> <p>19 department so we can establish IV access and</p> <p>20 give it to him through IV.</p> <p>21 BY MR. SMIT:</p> <p>22 Q What if the inmate refuses to go to the</p> <p>23 hospital?</p> <p>24 A It depends. If he's disoriented to any of</p> <p>25 the person, place, time or events then he's</p>

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<p style="text-align: right;">Page 166</p> <p>1 disoriented and can't make his own decisions at that</p> <p>2 point.</p> <p>3 Q Based on everything you reviewed in this</p> <p>4 case, all the testimony, all the documents, did you</p> <p>5 see anything where Mr. Jones specifically requested</p> <p>6 to see medical?</p> <p>7 A I did.</p> <p>8 Q Where is it? This is where he said: I</p> <p>9 want to see medical?</p> <p>10 A So it was -- well, one would be with</p> <p>11 Deputy Cooper's deposition. Are you asking about</p> <p>12 deposition transcripts or just medical records?</p> <p>13 Q I'm asking anything where someone</p> <p>14 testified that he specifically said I need or I want</p> <p>15 to see medical?</p> <p>16 A So he was asking for help. Deputy Cooper</p> <p>17 and I believe it was Lieutenant [Culmins'] report.</p> <p>18 Q Kelman?</p> <p>19 A Kelman. I apologize for botching their</p> <p>20 names.</p> <p>21 Q That's fine. These Michigan names. So do</p> <p>22 you have a site where he said: I want to see</p> <p>23 medical? You're saying he told Julie Cooper he</p> <p>24 wanted to see medical?</p> <p>25 A He stated he was going through</p>	<p style="text-align: right;">Page 168</p> <p>1 BY MR. SMIT:</p> <p>2 Q Can you answer?</p> <p>3 A Some -- I mean, you take care of some and</p> <p>4 not everybody is in alcohol withdrawal. You might</p> <p>5 get one a shift. You might get one every other</p> <p>6 shift.</p> <p>7 Q What I'm saying is that you aren't</p> <p>8 abnormally more than a comparable ER nurse; fair?</p> <p>9 A Sure.</p> <p>10 Q When were the withdrawal checks scheduled</p> <p>11 at the facility based on your review? What hours?</p> <p>12 A Looks like they were done at about 4:00 in</p> <p>13 the morning, right around 1:00 in the afternoon, and</p> <p>14 I believe it was 7:00 at night.</p> <p>15 Q And the first one that took place was</p> <p>16 4 a.m. on the 26th; correct?</p> <p>17 A That's correct.</p> <p>18 Q And then there was another one roughly at</p> <p>19 1:00, give or take?</p> <p>20 A Correct.</p> <p>21 Q Another one at 7:00 that evening?</p> <p>22 A Correct.</p> <p>23 Q And the next one was 4:00 the morning of</p> <p>24 the 27th; correct?</p> <p>25 A It's documented, yes.</p>
<p style="text-align: right;">Page 167</p> <p>1 withdrawals. So that's an implication he wanted to</p> <p>2 see medical.</p> <p>3 Q I'm not asking for implications. I want</p> <p>4 to know if there's anything you can site me to where</p> <p>5 he specifically asked to see medical the whole time</p> <p>6 he was there?</p> <p>7 A Nobody took any direct quotes from him so</p> <p>8 no.</p> <p>9 Q On page 3 of your report, Exhibit 174, you</p> <p>10 say: I can comfortably state -- middle of that big</p> <p>11 paragraph under Background and Qualifications: I</p> <p>12 can comfortably state there are hundreds of patients</p> <p>13 whom I have cared for in various stages of alcohol</p> <p>14 withdrawal as well as potentially going into</p> <p>15 withdrawals. Correct?</p> <p>16 A Correct.</p> <p>17 Q Wouldn't that be true of virtually any ER</p> <p>18 nurse that's practiced 5 or 10 years?</p> <p>19 MS. DAMICO: Object to form, foundation.</p> <p>20 BY MR. SMIT:</p> <p>21 Q That's not an unusually high number for an</p> <p>22 ER nurse; is it?</p> <p>23 MS. DAMICO: There's no number in that</p> <p>24 question.</p> <p>25</p>	<p style="text-align: right;">Page 169</p> <p>1 Q And then there was Officer Jordan radioed</p> <p>2 medical, and he was transferred to the infirmary at</p> <p>3 about 6 a.m.?</p> <p>4 A True. He radioed at about 5 a.m. and was</p> <p>5 transferred at 6 a.m.</p> <p>6 MR. SMIT: That's all I have. Thank you,</p> <p>7 sir.</p> <p>8 THE WITNESS: Thank you.</p> <p>9 MS. DAMICO: I have a few questions.</p> <p>10 CROSS EXAMINATION</p> <p>11 BY MS. DAMICO:</p> <p>12 Q Mr. Furman, you wrote a 16-page report in</p> <p>13 this case; correct?</p> <p>14 A I did.</p> <p>15 Q And you came here prepared today to</p> <p>16 testify about all your opinions in this case;</p> <p>17 correct?</p> <p>18 A Yes, ma'am.</p> <p>19 Q In your report you wrote very detailed</p> <p>20 opinions regarding the seven nurses, RNs and LPNs</p> <p>21 that are defendants in this case; correct?</p> <p>22 A Yes, ma'am.</p> <p>23 Q And with respect to each of those LPNs,</p> <p>24 and RNs in your written opinion you categorized them</p> <p>25 in your report in Paragraphs 1 through 7; correct?</p>

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<p style="text-align: right;">Page 170</p> <p>1 Each nurse has their own category?</p> <p>2 MR. CHAPMAN: Object to the form and</p> <p>3 foundation.</p> <p>4 BY MS. DAMICO:</p> <p>5 Q Is that true?</p> <p>6 A True.</p> <p>7 Q And with respect to each nurse, your</p> <p>8 opinions are based on detailed facts and evidence</p> <p>9 that you reviewed in this case; correct?</p> <p>10 MR. CHAPMAN: Object to the form and</p> <p>11 foundation, leading.</p> <p>12 MS. DAMICO: I'm allowed to lead.</p> <p>13 MR. CHAPMAN: No, you're not. Go ahead.</p> <p>14 THE WITNESS: Yes.</p> <p>15 BY MS. DAMICO:</p> <p>16 Q Okay. And during -- you were prepared to</p> <p>17 testify with respect to your opinions today with</p> <p>18 respect to each particular nurse; correct?</p> <p>19 A Yes, ma'am.</p> <p>20 Q Okay. And, in fact, during examination by</p> <p>21 Mr. Chapman you were asked very little with respect</p> <p>22 to the specifics of your opinion with respect to</p> <p>23 each nurse; correct?</p> <p>24 MR. CHAPMAN: Object to form and</p> <p>25 foundation.</p>	<p style="text-align: right;">Page 172</p> <p>1 his care and treatment of Mr. Jones that you found</p> <p>2 either breached the standard of care or you found</p> <p>3 was outside of the nursing norms based upon your</p> <p>4 skill, experience and training?</p> <p>5 A Correct.</p> <p>6 Q Okay. And that's true with all the</p> <p>7 nurses; correct?</p> <p>8 A Yes, ma'am.</p> <p>9 Q Okay. And what's contained in your report</p> <p>10 are all the things you plan on testifying to at</p> <p>11 trial; correct?</p> <p>12 A Yes, ma'am.</p> <p>13 Q And you'll sign an affidavit to that</p> <p>14 effect because you weren't asked to testify today</p> <p>15 regarding everything contained in your report; is</p> <p>16 that true?</p> <p>17 MR. CHAPMAN: Object to form and</p> <p>18 foundation.</p> <p>19 BY MS. DAMICO:</p> <p>20 Q Is that true?</p> <p>21 A Yes, ma'am.</p> <p>22 Q The dots that you were asked to point out</p> <p>23 in your report, those dots aren't all your opinions</p> <p>24 in this case, the dots that you marked in your</p> <p>25 report?</p>
<p style="text-align: right;">Page 171</p> <p>1 THE WITNESS: Yes, ma'am.</p> <p>2 BY MS. DAMICO:</p> <p>3 Q For example, were you asked your opinion</p> <p>4 about what Nurse Mollo, whether Nurse Mollo breached</p> <p>5 the standard of care?</p> <p>6 A No.</p> <p>7 Q Were you asked whether Nurse Mollo did</p> <p>8 anything else with respect to outside the standard</p> <p>9 of care, whether he did anything you felt amounted</p> <p>10 to not using medical judgment? Were you asked any</p> <p>11 questions about that by Mr. Chapman?</p> <p>12 A No.</p> <p>13 Q Were you asked whether any of his conduct</p> <p>14 was egregious or if any of his conduct was reckless?</p> <p>15 A No, ma'am.</p> <p>16 MR. CHAPMAN: Objection to form and</p> <p>17 foundation.</p> <p>18 BY MS. DAMICO:</p> <p>19 Q Was that included in your report?</p> <p>20 MR. CHAPMAN: Objection to form and</p> <p>21 foundation.</p> <p>22 THE WITNESS: It was.</p> <p>23 BY MS. DAMICO:</p> <p>24 Q Okay. In fact, you spent quite a bit of</p> <p>25 time detailing all the things that Mr. Mollo did in</p>	<p style="text-align: right;">Page 173</p> <p>1 MR. CHAPMAN: Object to form and</p> <p>2 foundation, leading.</p> <p>3 THE WITNESS: No. It's just for easy</p> <p>4 reference.</p> <p>5 BY MS. DAMICO:</p> <p>6 Q Okay. You were asked a number of</p> <p>7 questions regarding CIWA and CIWA scores; correct?</p> <p>8 A Correct.</p> <p>9 MR. CHAPMAN: Object to form, foundation.</p> <p>10 BY MS. DAMICO:</p> <p>11 Q If a person cannot get answers from a</p> <p>12 patient if they're not being cooperative or they</p> <p>13 can't answer questions, is there any other way to</p> <p>14 get an accurate or objective CIWA scoring?</p> <p>15 A For the objective signs?</p> <p>16 Q Uh-huh.</p> <p>17 A Sure.</p> <p>18 Q What would that be?</p> <p>19 A Touch the patient.</p> <p>20 Q Okay. Is there anything else you could do</p> <p>21 to get objective signs?</p> <p>22 A They could do vital signs, touch the</p> <p>23 patient for diaphoresis unless they see diaphoresis.</p> <p>24 Tremors. You can see tremors.</p> <p>25 Q What nurse did you find in your review</p>

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<p style="text-align: right;">Page 174</p> <p>1 that did or did not take vital signs when they did</p> <p>2 their CIWA analysis?</p> <p>3 A A complete set of vital signs, no nurse</p> <p>4 did it except for 5:30 in the morning on 5/27, the</p> <p>5 day he died or the day he cardiac arrested.</p> <p>6 Q And which nurse did that?</p> <p>7 A Nurse Furnace.</p> <p>8 Q And that was her -- was that her first,</p> <p>9 second or third encounter with Mr. Jones,</p> <p>10 face-to-face encounter?</p> <p>11 A It was her first.</p> <p>12 Q First and only; is that true?</p> <p>13 A Yes.</p> <p>14 Q And it's your testimony that none of the</p> <p>15 other nurses, LPN ever completed a full set of vital</p> <p>16 signs on Mr. Jones?</p> <p>17 MR. CHAPMAN: Objection. Leading.</p> <p>18 THE WITNESS: They did not.</p> <p>19 BY MS. DAMICO:</p> <p>20 Q Of all the exhibits that are in this file</p> <p>21 and the articles, which ones did you rely on in</p> <p>22 formulating your opinions today?</p> <p>23 A I relied on all of them.</p> <p>24 Q Okay. And can you explain to me, you</p> <p>25 testified something about locality standards in</p>	<p style="text-align: right;">Page 176</p> <p>1 locality of Grand Rapids or Kent County?</p> <p>2 A Yes.</p> <p>3 Q And the nursing practices are the same or</p> <p>4 similar here to what they are here in Kent County?</p> <p>5 A Correct.</p> <p>6 Q Do you have any reason to believe that the</p> <p>7 standard of care would be any different here in</p> <p>8 Richmond than it is in Kent County or the Grand</p> <p>9 Rapids area?</p> <p>10 A It doesn't appear to be, no.</p> <p>11 Q Okay. And you base that upon what?</p> <p>12 A My review of the records and my review of</p> <p>13 both the discovery depositions and locality census.</p> <p>14 Q Did you review any infirmary records?</p> <p>15 A Yes.</p> <p>16 Q You did. Specifically from the infirmary?</p> <p>17 A Those records from the -- the infirmary</p> <p>18 was the video tape and that was it. There was no</p> <p>19 infirmary records for when he was admitted on the</p> <p>20 27th at 6 a.m.</p> <p>21 Q Okay. And you're talking about infirmary</p> <p>22 medical records?</p> <p>23 A Correct.</p> <p>24 MS. DAMICO: Okay. I have nothing</p> <p>25 further.</p>
<p style="text-align: right;">Page 175</p> <p>1 Michigan is the locality standard. What do you mean</p> <p>2 by that?</p> <p>3 A It's just a standard of care, a local</p> <p>4 standard of care versus a national standard of care.</p> <p>5 So some states practice a national standard of care</p> <p>6 so it's what the body in the country would do. And</p> <p>7 then sometimes it's the local standard of care.</p> <p>8 They isolate to this one particular area, and it</p> <p>9 would be what those people would do in the same or</p> <p>10 similar circumstances as well as, you know, you're</p> <p>11 looking at the same size facility, population is</p> <p>12 what I understand it to be.</p> <p>13 Q Okay. And you've testified in Michigan</p> <p>14 cases before and you've been qualified to testify in</p> <p>15 the locality in which the hospital and doctors in</p> <p>16 which you were asked to testify?</p> <p>17 MR. CHAPMAN: Object to form and</p> <p>18 foundation.</p> <p>19 THE WITNESS: Yes.</p> <p>20 BY MS. DAMICO:</p> <p>21 Q And that's why you looked at that census</p> <p>22 information?</p> <p>23 A Correct.</p> <p>24 Q Okay. And you believe that the locality</p> <p>25 in which you practice is the same or similar to the</p>	<p style="text-align: right;">Page 177</p> <p>1 MR. CHAPMAN: We're done. Unless Peter?</p> <p>2 MR. SMIT: I'm done.</p> <p>3</p> <p>4</p> <p>5 (Exhibits retained by Counsel.)</p> <p>6 (Proceedings concluded at 2:48 p.m.)</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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<div>Page 178</div> <div>CERTIFICATE</div> <div>Commonwealth of Virginia, Chesterfield County, to-wit: I, Mary E. Donovan, a Notary Public for the Commonwealth of Virginia at Large, do hereby certify that the witness, STEPHEN FURMAN, was duly sworn to tell the truth in the cause aforesaid at the time and place specified in the foregoing caption. Further, that this transcript is, to the best of my ability, a true and accurate record of the testimony given. I do hereby further certify that I am not a relative, counsel or attorney of either party or otherwise interested in the outcome of this action. Given under my hand this 20th day of July, 2021. ----- Mary Elizabeth Donovan Virginia Notary Registration No. 270874 My commission expires May 31, 2024.</div>	

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